DOCUMENT RESUME

ED 199 021 RC 012 648

TITLE	Indian Education Oversight. Hearing before the Select Committee on Indian Affairs, United States Senate, Ninety-Sixth Congress, Second Session on Oversight of Indian Education (Public Laws 95-561 and 95-608).
INSTITUTION	Congress of the U.S., Washington, D.C. Senate Select Committee on Indian Affairs.
PUB DATE	24 Jul 80
NOTE	376p.: Not available in paper copy due to small print size.
EDRS PRICE	MF01 Plus Postage. PC Not Available from EDRS.
DESCRIPTORS	*American Indian Education: American Indians: *Boarding Schools: *Educational Finance: Federal Aid: Federal Indian Relationship: *Government School Relationship: *Reduction in Force: *School Closing: Self Determination: Tribes
IDENTIFIERS	*Bureau of Indian Affairs: Congress 96th: Contract Schools: Fort Sill Indian School OK: Johnson O Malley Act: Stewart Indian School NV

ABSTRACT

The July 24, 1980, Indian education oversight hearings focused on four issues: the proposed closing of the Fort Sill and Stewart Indian Boarding Schools: the furloughing of Bureau of Indian Affairs (BIA) teachers: contract schools' problems with indirect costs and operations and maintenance funding: and a study of Johnson O'Malley support for basic school operation. Citing possible reductions in educational opportunities and increased crowding in other schools, representatives of the Apache, Kiowa, and Comanche Tribes of Oklahoma: the Phoenix Area Intertribal School Board: the Reno Sparks Tribal Council: the Intertribal Council of Nevada: the National Congress of American Indians: the National Federation of Federal Employees: and the Fort Sill and Stewart Indian Schools opposed the school closings and BIA restrictions on student transportation. The National Council of BIA Educators and the National Federation of Federal Employees opposed teacher furloughs. Representatives of the Coalition of Indian Controlled School Boards, the Navajo Nation, and the Confederated Tribes of the Warm Springs Reservation of Oregon expressed concern about Public Law 95-561. The National Congress of American Indians called for further research on Indian response to the Johnson O'Malley study. Earl Barlow, Director of the Office of Indian Education, justified the school closings and responded to funding questions. (SB)

****
* Reproductions supplied by EDRS are the best that can be made *
* from the original document. *
****

ED199021

INDIAN EDUCATION OVERSIGHT

MAR 1981
ERIC/CRESS
RECEIVED

HEARING

BEFORE THE

SELECT COMMITTEE ON INDIAN AFFAIRS
UNITED STATES SENATE

NINETY-SIXTH CONGRESS

SECOND SESSION

ON

OVERSIGHT OF INDIAN EDUCATION
(PUBLIC LAWS 95-561—95-608)

JULY 24, 1980

WASHINGTON, D.C.

U.S. DEPARTMENT OF HEALTH,
EDUCATION & WELFARE
NATIONAL INSTITUTE OF
EDUCATION

THIS DOCUMENT HAS BEEN REPRODUCED EXACTLY AS RECEIVED FROM THE PERSON OR ORGANIZATION ORIGINATING IT. POINTS OF VIEW OR OPINIONS STATED DO NOT NECESSARILY REPRESENT OFFICIAL NATIONAL INSTITUTE OF EDUCATION POSITION OR POLICY

U.S. GOVERNMENT PRINTING OFFICE
71-965 O WASHINGTON : 1980

RC 012648

0 2

SELECT COMMITTEE ON INDIAN AFFAIRS
JOHN MELCHER, Montana, *Chairman*
DANIEL K. INOUYE, Hawaii WILLIAM S. COHEN, Maine
DENNIS DECONCINI, Arizona MARK O. HATFIELD, Oregon
MAX I. RICHTMAN, *Staff Director*

CONTENTS

WITNESSES

Page
Astor, Lawrence, chairman, Reno-Sparks Tribal Council, Reno, Nev 10
Barlow, Earl, Director, Office of Indian Education, Bureau of Indian Affairs 222
  Prepared statement 222
Beavers, Tedd, president, Local 1883, NFFE, Fort Sill Indian School 148
  Prepared statement 149
Begay, Edward T., councilman, chairman, Education Committee, chairman, Navajo Area School Board Association, Window Rock, Ariz 18
Bernhardt, Charles, labor relations specialist, National Federation of Federal Employees 68
Bordeaux, Richard, superintendent, Marty Indian School 197
  Prepared statement 197
Calica, Charles, director of tribal education, The Confederated Tribes of the Warm Springs Reservation of Oregon 210
  Prepared statement 211
Clements, Warren R., municipal manager, The Confederated Tribes of the Warm Springs Reservation of Oregon 210
Creamer, Donald, acting director, Borrego Pass School 50
Creamer, Mary Helen, acting director, Association of Navajo Community Controlled Schools 194
Daniels, Virginia, 561 Task Force, Navajo Division of Education 18
Dupris, Joseph, executive director, Coalition of Indian Controlled School Boards 190
Duus, Verner, executive director, Navajo Area School Board Association 18
Erratt, Clayton, executive director, National Council of BIA Educators 33
Feldman, Glenn, attorney, Abourezk, Shack & Mendenhall, Washington, D.C 2
Frank, Robert L., chairman, executive board, Intertribal Council of Nevada; and chairman, Washoe Tribe of Nevada and California 8
Gibson, Billy J., president, Local 452, NFFE, Choctaw Agency 143
Gipp, David, chairman, National Congress of American Indians 14
Holmgren, Elizabeth, Office of Indian Education Programs, Bureau of Indian Affairs 222
Jackson, Peggy, vice chairwoman, Phoenix Intertribal School Board 6
Jim, George, president, Borrego Pass School Board 196
Johnson, Edward C., Phoenix area vice president, National Congress of American Indians 11
Joseph, Linda, labor relations specialist, NFFE 68
Kills Straight, Birgil, president, Indian Controlled School Boards 151
Klinekole, Houston, chairman, Kiowa-Comanche-Apache Intertribal Land Use Committee 2
LaPointe, Enoch "Buzz", Federal programs coordinator, Marty Indian School 196
McGilbra, James, member, Local 452, NFFE, Choctaw Agency 145
  Prepared statement 147
Martin, Phillip, tribal chief, Mississippi Band of Choctaw Indians, prepared statement 219
Martin, Richard, member, Local 238, NFFE, Stewart Indian School 142
  Prepared statement 143
Metoxin, Lorretta, Minneapolis area vice president, National Congress of American Indians 16
Peirce, James M., president, National Federation of Federal Employees.
  Prepared statement 68

Contents—Continued

Page

Pierson, Joe, Navajo Division of Education 18

Streeter, Ray, superintendent, Labre Indian School, prepared statement 215

Tiger, Georgianna, staff member, National Congress of American Indians 11

Wallace, George, Jr., secretary, Kiowa-Comanche-Apache Intertribal Land Use Committee 2

Wauneka, Annie D., member, executive board, Navajo Area School Board Association 29

Wilkins, Marge, legislative specialist, Office of Congressional and Legislative Affairs, Bureau of Indian Affairs 222

CORRESPONDENCE AND ADDITIONAL MATERIAL RECEIVED SUBSEQUENT TO THE HEARING

Letter from Robert J. Martin, Fried, Frank, Harris, Shriver & Kampelman, with enclosed memorandum re Indian School Equalization Program 332

Letter from Mary Helen Creamer, acting director, Association of Navajo Community Controlled School Boards, with enclosures 336

Letter from Senator J. James Exon, dated August 13, 1980, to Senator John Melcher 349

Joint testimony of the Omaha, Winnebago, and Santee Sioux Tribes of Nebraska and the Macy, Santee, and Winnebago Public Schools in Nebraska 351

Letter from L. M. Burgess, chairman, Chitimacha Tribe of Louisiana, with position paper, dated August 19, 1980, to Senator Melcher 360

INDIAN EDUCATION OVERSIGHT

THURSDAY, JULY 24, 1980

U.S. SENATE,
SELECT COMMITTEE ON INDIAN AFFAIRS,
Washington, D.C.

The select committee met, pursuant to notice, at 10:04 a.m., in room 6226, Dirksen Senate Office Building, Hon. John Melcher (chairman of the committee) presiding.

Present: Senators Melcher and Hatfield.

Staff present: Max Richtman, staff director; Jo Jo Hunt, counsel; and Greg Doublestein, professional staff member.

Senator **MELCHER**. The committee will come to order.

This morning we are having a public hearing on Indian education. Our main purpose today is to hear testimony from Indian tribal representatives and representatives of Indian organizations and schools. We will also hear from the Bureau of Indian Affairs and other interested parties regarding selected Indian education issues.

The issues upon which we want to focus are the boarding school studies mandated by the Education Amendments of 1978—that is, Public Law 95-561—and the Indian Child Welfare Act of 1978—Public Law 95-608.

We want to hear the details on the closing of the Fort Sill and Stewart Indian Boarding Schools. We would like to know something about the furloughing of BIA teachers, problems that contract schools have had with indirect costs and operation and maintenance funding, and we are interested in the study examining Johnson-O'Malley support for basic school operation done by the National Conference of State Legislatures under contract with the Bureau of Indian Affairs.

In addition to these, the committee will be happy to hear any testimony regarding issues related to those mentioned above or others, if someone wishes to advise us of them.

We have a long list of scheduled witnesses and others who have requested to testify. We will do our best to take as many witnesses as possible today and will schedule other hearings, including bill hearings, for later this year.

There are a number of other education issues of interest to the committee which will be the subjects of subsequent hearings. Education of Indian children and Indian adults is one of the most important matters affecting the lives of Indian peoples.

This committee is very interested in the efficient and effective operation of educational programs to assure quality education for Indian people, and we will work very diligently toward that goal.

The first witness we will hear this morning is Houston Klinekole, chairman of the Apache Tribe of Oklahoma of Apache, Okla. It is my understanding that the chairman will be accompanied by Pressley Ware, chairman of the Kiowa Tribe of Oklahoma of Carnegie, Okla.; and Glenn Feldman, Esq., of Abourezk, Shack & Mendenhall of Washington, D.C.

Are you Chairman Ware?

Mr. FELDMAN. Mr. Chairman, Chairman Ware is not here today. On Chairman Klinekole's right is Mr. George Wallace, Jr., who is the secretary of the Kiowa-Comanche-Apache Land Use Committee.

Senator MELCHER. Mr. Wallace, are you representing the Kiowa Tribe?

Mr. WALLACE. I am representing the Comanche Tribe.

Senator MELCHER. Then, no one represents the Kiowa Tribe.

Mr. KLINEKOLE. They were supposed to have been here, but we have not seen them yet. They have some other business right now.

Senator MELCHER. Please proceed, Mr. Klinekole.

STATEMENT OF HOUSTON KLINEKOLE, CHAIRMAN, KIOWA-COMANCHE-APACHE INTERTRIBAL LAND USE COMMITTEE; ACCOMPANIED BY GEORGE WALLACE, JR., SECRETARY, KIOWA-COMANCHE-APACHE INTERTRIBAL LAND USE COMMITTEE; AND GLENN FELDMAN, ESQUIRE, ABOUREZK, SHACK & MENDENHALL, WASHINGTON, D.C.

Mr. KLINEKOLE. Mr. Chairman, my name is Houston Klinekole. I am chairman of the Apache Tribe of Oklahoma. I am also the chairman of the Kiowa-Comanche-Apache Intertribal Land Use Committee, which manages the lands held jointly by our three tribes under the terms of the Medicine Lodge Treaty of 1867.

It was also by this treaty that the Fort Sill Indian School was established. I am accompanied this morning by Mr. George Wallace, Jr., the acting secretary-treasurer of the Comanche Tribe; and Glenn Feldman, our attorney.

We are here today with one request. We would ask this committee to give us your help in keeping the Fort Sill Indian School open. We believe that the decision by the Bureau of Indian Affairs to close our school on September 30, 1980 is wrong as a matter of policy and wrong as a matter of law.

Fort Sill Indian School in Lawton, Okla., is a solidly built and well-maintained facility. During its 109 years of operation it has met the educational needs of our people. Many of our current tribal leaders attended Fort Sill.

Just this past year the school was accredited by the North Central Association. Now we have been told that our school will not reopen in the fall.

The Bureau has stated that it intends to close a number of off-reservation boarding schools because of increasing costs and declining enrollment. Yet, as the Department of the Interior study of May 6, 1980, makes clear, the per-pupil costs at Fort Sill are actually below the average per-pupil costs for all 11 secondary schools which were reviewed.

In addition, we believe that the administrative budget at Fort Sill could be cut substantially with no impact on our educational programs. Unfortunately, the Bureau has made no effort to achieve any cost savings and has not sought our advice or recommendations in this area.

It is also important to consider the actual degree to which Fort Sill is utilized. The Department of the Interior study indicates a current enrollment of 169 and an unauthorized enrollment of 256. The latter figure is however incorrect.

There is currently dormitory space at Fort Sill for 217 students. Thus, rather than a 66-percent occupancy rate, Fort Sill last year operated at 78 percent of capacity. If the school reopens this fall, we believe that we could increase this figure even higher.

The proposal to close Fort Sill seems even more suspect in light of the fact that the Federal Government has spent more than $230,000 in major capital improvements there within the last 18 months. These include $127,000 for an elaborate lighting and sound system in the gymnasium, $104,000 for a ventilation system in the woodshop completed just 2 weeks before school ended in May of this year, and $2,500 for a new roof on the industrial arts building which was completed just last month.

It should be noted that Fort Sill offers an extensive career counseling program and offers a special alcoholism-drug dorm for students with these problems. All of this would be lost if Fort Sill were closed.

The Bureau has mandated that if Fort Sill is closed its students would obtain priority placement at Riverside Indian School. Riverside is also a good school and no criticism of that facility is intended. Yet, Riverside last year had an enrollment of 259 students and dormitory space for 298. Thus, under the best of circumstances, Riverside could not accommodate more than one-fourth of the Fort Sill student body.

In addition, many of the cottage dorms at Riverside are in need of extensive renovation, which has not begun and for which no funds are currently available, and at least one dorm there has developed a structural problem which may render it uninhabitable for the coming school year. At Riverside today dorm rooms built for two are now housing three students and rooms for three are now housing five.

In short, Riverside could not hope to accommodate any substantial portion of the Fort Sill student body, particularly since Chilocco Indian School in northern Oklahoma was also closed this year and many of its students will be enrolling at Riverside.

Nor could public schools effectively handle the Fort Sill students. Most boarding school pupils are already public school dropouts who come to the residential schools seeking a last chance for an education.

We believe that mention must also be made of the inadequate manner in which this proposed closing has been planned and implemented.

As of today, we are less than 4 weeks away from the proposed opening date of the schools. Yet, as of last week the Bureau had not yet even approved, much less begun to implement, a comprehensive closure and transition program for Fort Sill Indian School. Given the many problems that such an effort would involve, I am absolutely convinced that the Bureau is inadequately prepared to deal with these problems in the short period of time remaining.

On July 11 the superintendent of Fort Sill reported that virtually the entire student body and 60 faculty members had not yet been placed for the coming school year.

Fort Sill is also unique among BIA boarding schools in Oklahoma, in that a very high percentage of its students—over 80 percent—are enrolled for reasons relating to academic underachievement. By comparison, Riverside School's population is composed almost entirely of students who have evidenced personal, parental, or social problems.

The Bureau says that it will simply combine these two student populations at Riverside. I have very serious doubts as to whether one can mix two such different groups of students without adequately planning how to provide for the needs of each group. The Bureau has done no such planning.

Let me conclude by raising for you two legal issues which we believe should be considered by the committee. First, we believe the attempt to close Fort Sill Indian School would be a violation of the Medicine Lodge Treaty of 1867. That treaty provided for the establishment and operation of a school to educate the children of the Kiowa, Comanche, and Apache tribes. The need for educational facilities is just as great today as it was in 1867, perhaps more so. Therefore, we would regard the closing of our school as a treaty violation by the Federal Government.

Second, we have heard a great deal from Congress in recent years about Indian self-determination. Most recent Federal Indian education legislation includes the requirement that decision affecting Indian people should be made only after consultation and discussions with the affected tribes. I refer specifically to the Indian Self Determination Act of 1975 and the Indian Education Act Amendments of 1978.

Yet, the decision to close Fort Sill Indian School was made by the Bureau with absolutely no attempt to consult with or discuss the matter with us beforehand. We were simply told, once again, what the Bureau felt was in our best interests.

As far as we can see, self determination is merely a word that Congress writes on paper which the Bureau can, and does, ignore whenever it so chooses.

In short, we believe that an attempt to close Fort Sill this fall will result in administrative turmoil, severe overcrowding at Riverside, and will effectively end the educational hopes of the majority of Fort Sill's students. Funding for the school for the 1981 fiscal year will give both the Bureau and the tribes an opportunity to work toward formulating a well thought out and realistic proposal for the future of Fort Sill, without the impossible time constraints under which we are now operating.

I am pleased to report that after giving this matter great study, Senator Bellmon last week announced his support for our efforts. We hope that this committee will join with us and encourage the Bureau to reconsider its decision regarding the Fort Sill Indian School.

Thank you.

Senator MELCHER. Thank you very much, Mr. Klinekole.

This is the position of the Kiowas and the Comanches too, is it not? You are speaking for all three.

Mr. KLINEKOLE. The three tribes concur in this action.

Senator **Melcher**. If Fort Sill would remain open 1 more year, what would be the outcome? I mean, what would the difference be? Would you be asking that Fort Sill remain open indefinitely, or what?

Mr. **Klinekole**. The Bureau of Indian Affairs has had Indian education in their hands for over the last 100 years. Now, with the enactment of the new law we have just begun to assume the responsibility for this new venture—Indian education. For the first time the tribes are involved. We would like the chance this year, not for only 1 year, to show what we can do. Perhaps we can improve the educational condition of our people.

Under the new law the superintendent will operate the school and it will be under different management. That is something which we never before had.

Senator **Melcher**. How much does it cost per student?

Mr. **Klinekole**. I do not have those figures.

Mr. **Feldman**. According to the Interior study it is just over $10,000. Their figure is $10,885 cost per average daily membership.

Senator **Melcher**. You say $10,885.

Mr. **Feldman**. That is correct.

Senator **Melcher**. What law school did you graduate from, counselor?

Mr. **Feldman**. Georgetown.

Senator **Melcher**. How much did it cost to go to Georgetown and get a law degree, per year?

Mr. **Feldman**. Less than $10,885.

Senator **Melcher**. Chairman and Secretary, do you see what we are up against? These are outrageous costs per student. We would do anything to provide quality education for Indian people, but it is getting increasingly more difficult to go on the Senate floor and the House floor and before public scrutiny defend a system in which it costs over $10,000 a student.

Of course, I recognize that you have testified that this is sort of the median. Fort Sill is not high by comparison to the other BIA schools, but the system has got to be straightened out some.

Maybe you can do a better job. I do not know. Is that your intention, namely, to do a better job and lower the costs? The tribes will not have that kind of money. It will have to be appropriated money, will it not?

Mr. **Klinekole**. As I said, the new act is something into which we are just now getting. This will be our first year. Maybe we can reduce the costs. We do not know, but we would like to have a chance.

Senator **Melcher**. We will try to give you that chance, but we are going to have an extremely difficult time over the next several years here in Congress in being able to keep boarding schools open if they have these kinds of costs.

We do not know for sure, you understand, that we can make sure that you get this extra year's grace and reverse this closure on September 30, but we will try.

I do not think that there is any opportunity to put all of these students from Fort Sill in Riverside, is there?

Mr. **Klinekole**. No.

Senator **Melcher**. That makes it pretty mandatory to keep Fort Sill open.

Mr. **Klinekole.** Maybe a better plan should be made for the future.

Senator **Melcher.** I understand and I appreciate the fact that you want to see what you can do during this next year and see what you can do under the new law. What do we call it?

Ms. **Hunt.** Public Law 95–561. That is the law to which you are referring, is it not?

Mr. **Klinekole.** Yes. I believe that is the one to which I referred.

Senator **Melcher.** Thank you all, very much.

Mr. **Klinekole.** Thank you, Senator.

Senator **Melcher.** We will hear next from the Phoenix area panel; Terrance Leonard, chairman of the Phoenix Area Intertribal School Board.

Terrance, are you here?

Ms. **Jackson.** No, he is not here.

Senator **Melcher.** Peggy Jackson is here. She is vice chairwoman of the Phoenix Intertribal School Board.

Is Robert L. Frank here?

Mr. **Frank.** Yes.

Senator **Melcher.** Mr. Frank is chairman of the executive board of the Intertribal Council of Nevada and chairman of the Washoe Tribe of Nevada and California in Gardenerville, Nev.

We also have Lawrence Aston, chairman of the Reno-Sparks Colony of Reno, Nev.

How are we going to do this? Peggy, will you start?

Ms. **Jackson.** Yes.

Senator **Melcher.** You may begin.

STATEMENT OF PEGGY JACKSON, VICE CHAIRMAN, PHOENIX INTERTRIBAL SCHOOL BOARD

Ms. **Jackson.** Mr. Chairman, members of the committee, and colleagues, I am Peggy Jackson, vice chairperson of the Phoenix Area Intertribal School Board, Inc., and tribal representative from the Gila River Indian Reservation in Arizona.

Mr. Chairman, before I begin my oral testimony I respectfully request that the portion of the record pertaining to our presentation remain open for 10 days to allow submittal of our written testimony to be entered into the hearing.

That testimony was to be presented by Mr. Terrance Leonard, chairman, who was unfortunately unable to be here today.

Mr. Chairman, we wish to address several issues which follow the hearing's agenda items and which have caused much concern and hardship among parents, students, and our school personnel.

First is the decision of the Bureau of Indian Affairs to prohibit student fall transportation due to travel restrictions which has placed undue burdens on our parents and students. That decision is to be followed by another, to withhold the opening of schools until mid-October.

The combination of the two will have severe ramifications to the extent that they are a denial of educational opportunities and constitute negligence on the part of the Bureau in the performance of its responsibilities.

We have forwarded these concerns to both the White House and to Congress, requesting a mere allowance of travel expenditures. The issue of travel funds is mandated in the Indian school equalization program, and the per capita entitlements generated by our students for student transportation must be used for that purpose.

In addition to at-home impacts, the resulting domino effect reaches into the ESEP personnel, resulting in forfeiture of academic, and interscholastic activities and noncompliance with mandatory programs and services.

We are, however, hopeful that this hearing and the committee's actions will provide the remedies and the direction to avoid personal hardships on the part of our parents and students.

Second, we believe that the closure of the Stewart Indian School is unwarranted and totally unnecessary. The Bureau reports that various studies and surveys support the decision to close Stewart. However, we have found that the predicted cost savings are nil.

An examination of the facilities' survey and earthquake reports show contradictions and misleading conclusions. The studies and surveys were not made available to the representative tribes. That includes the study conducted by the Program Review Division of the Interior, which was only released to the Phoenix area office on June 3, 1980.

The review states that the displaced students can be accommodated at the Sherman and Phoenix Indian schools without major costs. This is far from the truth, and to accomplish this students would have to be stacked into dormitory rooms.

Our policy has been to allow two occupants to a room for privacy and safety. The proposed cost savings in student and instructional services by closing one school merely add to another with the same entitlements and similar expenditures.

We have been in direct contact with both representative tribes where our students are enrolled and with nonrepresentatives regarding Stewart's closure, and the majority are supportive of the need to have Stewart remain open.

Another issue which we have been stressing is the lack of communication and direction of the Bureau in this matter and others. On April 24, 1980, we passed Resolution 424, which constitutes a decision. We have not received any response to this day.

I have copies of the resolution which I can leave with you.

The remaining issue, of personnel displaced by the reduction in force and teacher furloughing, has been one of total frustration by all concerned. Basically, there has been a lack of direction in the Bureau where, at one point, we were told to initiate reassignments which, in themselves, are trying experiences. We were later informed that the decision was rescinded.

We anticipate personnel action to be delayed for another 30 days or more.

The need for Indian school boards to be exempted from tribal restrictions to continue training activities mandated by Public Law 95-561 for the operation of school boards is another issue. We strongly recommend that funds be added to the Indian school equalization program or allotment formula. This recommendation of the Program Review

Division report and the need for Indian school boards to discharge their responsibilities as mandated by Public Law 95-561 is one we hope you will consider seriously.

Mr. Chairman, this concludes my testimony on behalf of the Phoenix Area Intertribal School Board. Thank you.

Senator MELCHER. Thank you.

Peggy, can you tell us how many students are involved.

Ms. JACKSON. Throughout the Phoenix area there are approximately 2,500.

Senator MELCHER. Many of those would not be involved in the school closure.

Ms. JACKSON. That is correct. Stewart's enrollment is around 400 or 450.

Senator MELCHER. So there would be 400 students that would have to find somewhere else to go.

Ms. JACKSON. That is right.

Senator MELCHER. Thank you. I take it that there has been no planning for where those 400 students would be enrolled, or has there?

Ms. JACKSON. There has been some planning, but we are still waiting to hear what the decision will be.

Senator MELCHER. Chairman Frank.

STATEMENT OF ROBERT L. FRANK, CHAIRMAN, EXECUTIVE BOARD, INTERTRIBAL COUNCIL OF NEVADA; AND CHAIRMAN, WASHOE TRIBE OF NEVADA AND CALIFORNIA

Mr. FRANK. I would like to add a few comments regarding the 400 students who are currently enrolled in some status at Stewart. The other boarding schools where these students would go would be Brigham City, which is in Utah and is the Intermountain School; the Phoenix Indian High School boarding school, which is in Phoenix, Ariz.; and the Sherman Institute, which is in Riverside, Calif.

We have asked for an impact study, if the Bureau has done one, on the impact on those facilities if the 400-plus students are placed there. Surveys that we in the Phoenix Area School Board have done on those facilities indicate that Phoenix Indian High School is in itself in sad shape. They now have dormitories that are not used and are boarded up, because they are not up to standard.

The Sherman Institute has similar problems. Sherman is the newest of the facilities. Brigham City is an old facility.

Also, I have checked with the Indian Health Service area office in Phoenix on what the impact would be on the quality of health care and whether they can provide and guarantee health care for those students if they place them in any of the three facilities. They have not done anything to study what will happen in that area.

I would imagine that there will be a burden on any existing health facility if they have an influx of 100 or more students in any one of these facilities.

Also, Peggy alluded to the fact that the Facilities Management Division of the Bureau of Indian Affairs did a study on the buildings. Part of the study—incidentally, we have asked for copies of the study that was done and of all the material that the Bureau used on which it based its decision to close this or Fort Sill's facilities. We have been unable to get copies of that material.

I have seen some documention that alludes to studies that were done, but nobody in the Bureau seems to know where those studies are. Nobody in the Bureau will admit to being the one who made the decision to close Stewart.

Somebody had to make this decision. If the decision was made, there was no consultation with Indian tribes or Indian organizations regarding education. We would certainly like to have had input into the decisions and to have made recommendations.

We are very concerned as well, as all the tribes in this country are, about having a balanced budget. We can understand that some of the boarding schools have very high costs per student.

Our information is that Stewart's cost per student is $5,717.

Senator **Melcher**. I think that for the record we ought to say that the average is supposed to be $4,700 for all Indian boarding schools—or somewhere in that range.

Mr. **Frank**. Yes. I think part of that could be streamlined if there were an efficient operation of boarding schools. Currently boarding schools are operated by BIA.

Senator **Melcher**. There are a lot of reasons for the high costs, I guess, but the fact is that the students have to be educated and have to have a place to go this September and start school. I do not think there have been any studies of any depth. I think this was a budgetary decision.

It was a decision to save some money and the first time we were aware of it, here in the committee, was a few months ago when we saw it in the rescissions recommended by the administration.

I think it is purely a means of saving some money, but I do not think there has been a great deal of planning that went into this, nor any in-depth studies.

You are welcome to see the studies if we can get them, but I do not think they will tell you a great deal. We will talk to the Bureau of Indian Affairs about this before we finish with this hearing.

Mr. **Frank**. If the decisions are made to save money, then there should be some intelligent rationale about where you can make the most effective cuts and can serve the most people.

Senator **Melcher**. I do not think you ought to be making rescissions to save money on education when you do not know what you are going to do with the students involved. I think that is a matter of saving money where you cannot save money, because these students have to be educated, have to go to school, and have to have a place to go to school. If they do not have it this fall, their lives would be seriously jeopardized in the quality of their education. I hope we are not going to allow that to happen.

We will probably have to make some adjustments rather quickly. We will have to get some understanding with the Bureau of Indian Affairs on how we will handle this and we hope to do that as an outgrowth of these hearings.

Mr. **Frank**. I would like to add one more thing. The staff that is currently at Stewart have worked diligently to stay within the system and design a quality education program. Stewart has several programs that are model programs.

I think the staff at Stewart deserve to know where they are as well. They are in quite a quandary over where they are.

If the rationale to close Stewart is based upon the potential of an earthquake, as was indicated to me as one of the criteria on which they based their decision, then all old Federal buildings should be torn down because of the potential of an earthquake in that area. Why don't they start tearing down all the old buildings in San Francisco because San Francisco has a higher potential for earthquakes than Stewart does?

That is just one rationale we have heard used.

We would like to actively solicit the assistance of this committee to keep Stewart operating and to keep it open for the quality education of Indian students. Thank you.

Senator MELCHER. Thank you.

Chairman Astor, do you have anything to add?

STATEMENT OF LAWRENCE ASTOR, CHAIRMAN, RENO-SPARKS TRIBAL COUNCIL, RENO NEV.

Mr. ASTOR. Yes. My name is Lawrence Astor. I am the chairman of the Reno-Sparks Tribal Council in Reno. I am also here this morning supporting the continuation of Stewart school.

There are many Indians from Nevada, as well as the neighboring States, who attended the school and have excelled in various areas: vocations, sports, music, and individualism.

Prior to the early 1960's, Stewart served as a home for many Nevada Indians. Despite many reports that indicate that graduates have a lower grade average than do those of public schools, one must also be aware that those graduates possess knowledge to enter the job market. They have self respect and a retention of tribal heritage.

In order that President Carter's budget balance be met, the Bureau of Indian Affairs budget for fiscal year 1981 will be cut by over $40 million. As a result, Stewart Indian School and Fort Sill Indian School in Lawton, Okla., are scheduled to close.

The current operating school budget for Stewart is $2.9 million, with allocations per student at $5,717. Plans for the 400 students presently attending Stewart are to enroll the students in other boarding schools.

Disposing of the Stewart school in the interest of a balanced budget raises some important questions. If all 400 students now at Stewart school are placed in other BIA boarding schools, would any net savings actually be realized? For example, 400 students times $5,717 equals $2,286,800, which is only $613,000 less than the current Stewart budget of $2.9 million.

The land area for the Stewart campus is 3,102 acres. What will the future use be of the campus? The Bureau of Indian Affairs has 45 percent of the water rights to Clear Creek Canyon, a major water source of the Carson City area. What will happen to those water rights?

While a closure of Stewart School is apparent, tribal groups that have students attending Stewart should have the ultimate decisive vote regarding any such closure of the school.

The Tribal Council of the Reno-Sparks Indian Colony, as well as the Intertribal Council of Nevada, have adopted resolutions opposing the closure. Also, the chairman of the Save Stewart Committee shares my views.

Thank you.

Senator MELCHER. Thank you very much, Lawrence.

We will see what we can do about Stewart. We will try to be helpful to both Stewart and Fort Sill, and probably others as we go along.

Thank you all very much for your testimony.

I understand that David Gipp, chairman of the National Congress of American Indians Education Committee is now present. He will be accompanied by Ed Johnson, the Phoenix area vice president of the NCAI; Lorretta Metoxin, Minneapolis area vice president of NCAI; and Georgianna Tiger.

Mr. Gipp, will you lead off?

STATEMENT OF EDWARD C. JOHNSON, PHOENIX AREA VICE PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS; AND ALSO REPRESENTING THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION; ACCOMPANIED BY GEORGIANNA TIGER, STAFF MEMBER, NATIONAL CONGRESS OF AMERICAN INDIANS

Mr. JOHNSON. No, Mr. Chairman. Let me introduce myself. I am Edward C. Johnson, Phoenix area vice president of the National Congress of American Indians. I will be the main speaker today for NCAI and the National Tribal Chairmen's Association.

As Phoenix area vice president, I represent the Indian people of Arizona, Nevada, and Utah. My testimony will concern primarily the closure of Stewart and Fort Sill Boarding Schools.

Mr. David Gipp, chairman of the NCAI Education Committee will address the furloughing of Bureau of Indian Affairs teachers and the indirect cost and maintenance funding problems currently faced by the contract schools.

Mrs. Lorretta Metoxin, Minneapolis area vice president of NCAI, representing the Indian people of Minnesota, Michigan, and Wisconsin, will speak to the March 1980 report examining "Johnson O'Malley Support for Basic School Operations."

We are all representing the National Tribal Chairmen's Association presently convened in its national convention in Wichita, Kans.

The National Congress and the National Tribal Chairmen's Association are concerned about the education services provided to the federally recognized tribes by the Bureau of Indian Affairs. The focal point for all such education services to the tribes has been, and must remain, governed by the principles contained in Public Law 93-638, the Indian Self Determination and Education Assistance Act of 1975.

The act guarantees that tribal priorities will set the direction for the planning and the implementation of education services made available to our children. This principle is furthered through section 1133 of title XI of Public Law 95–561.

Policies for the Department of the Interior, Bureau of Indian Affairs, and Office of Indian Education Program have been developed and became final on November 21, 1979. They were published in the Federal Register, Section 31A, 4(i), which states:

> Choice of school. Afford Indian and Alaska Native students the opportunity to attend local day schools and other schools of choice and the option to attend boarding schools when the student and parent or guardian determine it is in the student's best interest and consistent with the provisions of the Indian Child Welfare Act of 1978 (Public Law 95–608) except that, residential schools shall not be used as substitutes for providing adequate local family social services. Each school shall establish its attendance area in cooperation with neighboring schools.

Last week the National Democratic Committee affirmed this very same principle in the wording of the Indian plank which is to be included in the party platform for 1980.

Regarding American Indians it states:

> The Carter Administration has upheld and defended the historic special relationship between the Federal Government and the Indian tribes. In addition, it has strongly supported the policy of self-determination and the right to practice the ancestral religions that are important to many tribal members. More than $24 million over the next 10 years has been committed to assist Indian tribes with energy resources in making decisions about the development and protection of these resources. The administration has firmly reiterated its fundamental opposition to the policy of termination which was so detrimental to Indians and their relationship with the Federal Government.
>
> These policies must continue as the Federal Government finds better means of dealing effectively and compassionately with Indian tribes and individuals. The Federal Government must redouble its efforts to improve the housing, health care, education, and general welfare as an equal partner with tribes as they decide for themselves the best means of managing their substantial energy resources.

The proposal to close Fort Sill and Stewart Indian Boarding Schools, included in the recently completed Bureau of Indian Affairs off-reservation boarding schools PRD of May 6, mandated by the Congress in Public Law 95–608, title IV, and in title XI, public Law 95–561, stands in sharp contradiction to self-determination principles called for in the Democratic Party platform.

NCAI has reviewed the study from which this recommendation was derived. While we are concerned about specific facts contained in the report—for example, the high per pupil costs of school operations—NCAI is more concerned about the fact that the children of we "First Americans" are to be shipped around like so many Cuban refugees. Nowhere have the views of the tribal governments been assessed or the views of the students.

Let me speak to the issues concerning boarding schools and specifically Stewart Indian School, one of the boarding schools scheduled to be closed, since it is in my area.

I know about Stewart because my father graduated from the school in 1926 and later became the first member of my tribe, the Walker River Paiutes, to graduate from college. Other graduates have earned Ph D's. Most graduates of Stewart Indian School would recommend that the school be kept open and improved. Most of the tribes in the

Phoenix area oppose the closing of Stewart Indian School.

Many of the present students have indicated that they would not continue their schooling except at Stewart. NCAI recommends that the students not be transferred to Inter-mountain, Phoenix or other boarding schools against their wishes.

Boarding schools should be kept small so that there is more individualized attention. Most of the psychological and academic problems of the students who attend the boarding schools are created in the public schools on or near the reservations since most of the Indian children attend public schools in their early formative years, and the public schools are not meeting their needs.

The main reason for closing Stewart Indian School seems to be the age of some of the buildings in an earthquake zone. Yet, those beautiful native stone buildings have stood for over 40 years through earthquakes. The Phoenix Area Intertribal School Board has, in fact, developed an historic preservation proposal to gain a listing in the National Register of Historic Places and obtain funds for necessary rehabilitation.

Most of the students come from Arizona. Why, I ask you, do these students come to Stewart? They come to Stewart primarily because they do not want to go to Phoenix Indian School, Sherman, or Intermountain Indian School.

According to the off-reservation boarding school study, on page 16, Phoenix Indian School is 156 students under capacity. Why is it under capacity since students are free to transfer? What is the dropout or transfer rate at the boarding school? The ORBS study states, on page 1, that:

> Most students come to ORBS from public schools and are highly mobile as evidenced by the turnover rates which generally average 30–50 percent in any school year.

The ORBS study recommends, on page 15, that the students at Stewart be sent to Phoenix Indian School, Intermountain Indian School, or Sherman. Intermountain is even farther away from the Arizona homes of most of the children who attend Stewart. The report further states, on page 15, that "without further allocation of new funds, Chemawa, Wahpeton, and Flandreau have the capacity to enroll an additional 418 students." Stewart students could even go farther away from their homes like so many Cuban refugees.

No; Stewart Indian School and Fort Sill should not be closed. Huge impersonal boarding schools would be created. This may cut down on costs, but it would not meet the human needs of the students who attend the schools.

There may well be any number of specific reasons why the per-pupil costs of the several schools listed on page 2 of the report are so out of line with the per-pupil costs of other of these schools. If local factors, specific to the given situation, are the reason for this imbalance and if those factors can be corrected, then there no longer would be a financial rationale for closing these schools.

Similarly, the report has amassed a series of statistical observations arranged in such a way as to present an argument in favor of consolidation, without presenting any information to explain why some facilities might be operating at less than full capacity. Again, if site-specific factors are at issue here and site-specific factors can be corrected, there would no longer be an underutilization rationale for the closing of these schools.

Title XI, Public Law 95–561, requires that standards for operation of the off-reservation boarding schools be developed so that the most efficient use of local facilities and programs can be assured at each site. Implementation of such standards would do much to alleviate the inefficiency this report has highlighted, but nowhere in the narrative does the report acknowledge the need for such standards or the changes local operation potential improvement in such quality controls could provide.

The result of these recommendations we fear, will be far less desirble than current conditions. On the one hand, the problems in public school education which lead Indian parents to choose to send their children to boarding school facilities remain unaddressed. NCAI does not see how forcing the students to remain in undesirable public school contexts will advance tribal educational interests.

Closing some of the boarding schools, in addition, will lead to increases in enrollments at remaining boarding schools. This, in turn, will decrease the possibilities that Indian students will receive individualized and personalized instruction and may, in fact, introduce problems of overcrowding in dormitories and other facilities where such problems do not currently exist.

NCAI does not desire to endorse inefficiency or the continuing operation of schooling programs at costly deficits. NCAI is aware, however, that most tribes want to see the off-reservation boarding schools retained as an option for their young people's education because adequate local education options do not exist.

The report is a beginning in gathering facts in an effort to maximize efficient utilization of ORBS. Unfortunately, it does not address the parameters of either legislative mandate that calls for the studies.

I would like now to introduce Mr. David Gipp, chairman of the NCAI Education Committee. He will discuss the furloughing of Bureau of Indian Affairs teachers and indirect costs and maintenance funding problems currently faced by the contract schools.

Mr. Gipp?

STATEMENT OF DAVID GIPP, CHAIRMAN, NATIONAL CONGRESS OF AMERICAN INDIANS EDUCATION COMMITTEE; ALSO REPRESENTING THE NATIONAL TRIBAL CHAIRMEN'S ASSOCIATION

Mr. Gipp. Thank you.

Two other key issues are the furloughing of BIA teachers and the indirect costs and maintenance funding problems currently faced by the contract schools. At the base of both of these problems is the Indian school equalization formula which was developed in response to the mandate of title XI of Public Law 95–561.

As explained by the National Federation of Federal Employees in a recent statement, the implementation of formula funding has led local school authorities to convert many of their teachers from career-permanent to career-seasonal status. Layoffs during the summer months when school is not in session is inevitable and is beginning to happen. Yet, these workers are not eligible to receive unemployment compensation when summer layoffs occur, since section 3304(a)(6) of title 26 United States Code denies compensation to employees of educational institutions if they have a reasonable expectation that they will be hired back for the next year or term.

NCAI is sympathetic to the hardships which result from these furloughs in individual cases. At the same time, NCAI recognizes that at the base of this problem is the equalization formula called for in title XI of Public Law 95-561.

Perhaps, if the implementation of this portion of title XI has produced the difficulties which the National Federation of Federal Employees identified, the time has come for Congress to schedule oversight hearings which will assess the impact of the formula funding approach on BIA school operation and BIA school personnel policies.

The formula funding issue likewise underlies many of the budgetary problems being faced by the contract schools. NCAI has been advised, for example, that budgetary provisions offsetting facilities management costs for contract schools in the Minneapolis area have been eliminated from those schools' budget requests for the fiscal year 1981 school year.

Unless some external provisions are otherwise developed, contract schools will be forced to use portions of their basic operating funds for purposes of facilities management and other administrative costs, even though the formula which sets the level of funds for basic operations purposes does not include provisions or weighings which reflect local facilities management needs.

The fact that contract schools in this area have just received this information—and NCAI has been advised that other areas have just received this information—may not itself be a consequence of the formula funding approach. Still, the fact that contract schools have begun the fiscal year without receiving confirmation of their operating budget remains a point of concern to these schools' administrators and to NCAI as well.

A thorough review of the whole procedure now being used to fund BIA schooling programs ought to be conducted immediately in terms of how the Bureau will fund these school programs.

We received earlier this morning—and I believe Mrs. Metoxin can speak to a case in point, Mr. Chairman—notice of additional cuts in indirect cost support which is necessary for these schools.

I might add, Mr. Chairman, that our recent midyear conference of the National Congress, the National Congress Education Committee, and the full assembly at Reno, Nev., in June, all recommended that indirect cost rates need to be included for these programs under the law, particularly for these contract schools which use money for administrative costs to effectively operate and deliver quality education.

Mr. JOHNSON. Mr. Chairman, I would like to introduce Mrs. Lorretta Metoxin, Minneapolis area vice president of NCAI, representing the Indian people of Minnesota, Michigan, and Wisconsin. She is a member of the executive committee of NCAI.

STATEMENT OF LORRETTA METOXIN, MINNEAPOLIS AREA VICE PRESIDENT, NATIONAL CONGRESS OF AMERICAN INDIANS; ALSO REPRESENTING THE NATIONAL TRIBAL CHAIRMAN'S ASSOCIATION

Mrs. METOXIN. Thank you.

Mr. Chairman, one of the issues of concern to the committee today is the March 1980 report examining "Johnson-O'Malley Support for Basic School Operations." We note for the record that in his letter of June 30, 1980, addressed to Senator James Exon, Earl Barlow, Director of BIA's Office of Indian Education Programs, noted:

> We do not support the findings of the JOM study, for we believe that it was not appropriate to apply the BIA's Indian School Equalization Formula to public schools to determine their financial needs. . . . Further, we question the validity of some of the data supplied voluntarily by some of the schools surveyed, for they conflict [sic] with other information gathered by other sources.

Senator MELCHER. I am sorry. I am going to have to interrupt you. There is a vote on the floor of the Senate and I will have to go immediately to vote. The committee will be in recess for about 15 minutes.

[Recess taken.]

Senator MELCHER. The committee will again come to order. I am sorry for the delay, but the Senate is in session and we are not able to control the activities of various Senators, so my presence was required on the floor.

When we recessed we were receiving the testimony of Loretta Metoxin. Will you just proceed from the point where you left off, Loretta.

Mrs. METOXIN. Mr. Chairman, to continue, it is our understanding that at least 24 schools voluntarily supplied the information which is in conflict with earlier audits. However, we note the renowned expertise of the task force members in JOM.

Therefore NCAI is concerned about Mr. Barlow's decision not to endorse the study and feels that the wisest course of action under the circumstances would be for this committee to solicit reactions to the study from a broad range of Indian educators familiar with the Johnson-O'Malley funding questions. NCAI stands ready to assist the committee with gathering this information in whatever way might be most useful for committee purposes.

Until then, however, we must reiterate the recommendation contained in the final paragraph of Mr. Barlow's letter and urge you to analyze the report with caution.

NCAI is further concerned regarding the effects of the Office of Management and the Budget-imposed travel ceiling on student travel. Clearly the intent of this appropriations action was to limit excessive administration travel. As OMB has applied it, it extends to student and support travel. It is our understanding that there are adequate travel moneys in the current allocation but that OMB-imposed restrictions prohibit their use.

What this translates into is the prevention of Indian students to travel back to school. This affects the boarding school students in nearly every BIA area. Reopening schools after the beginning of the new fiscal year is the only alternative if the ceiling is not waived.

In addition we understand that this Interior travel ceiling is being applied to $25 million in title I and $6 million in handicapped pass-through moneys that are now out of compliance with their legislation because of the OMB ceiling.

Mr. Chairman, I would like to deviate a bit and insert verbal testimony relating to operation, maintenance, and minor repairs and maintenance costs of contract schools. Just this morning I received a call from the Oneida Tribe of Wisconsin, from a Joey M. Hill, the director of our tribal school, on a very critical issue.

That is, that he has been advised in a telphone conversation from the Minneapolis area office that his advice of allotment for funding our tribal school is cut by $35,000. It is cut in the specific areas of operation and maintenance and minor repairs and maintenance, which are not included at all.

In practical terms, what this means to our tribal school is that we will have to dip into the 3,100 category funds in the amount of $35,000 for a total deficit of $70,000 of operational moneys for the Oneida tribal school.

In addition to providing this testimony on this issue, I will be attempting to contact those agency people to rectify this situation, because if it is not rectified what it means to us is that the quality of instruction in the entire program for the Oneida students will be very much affected in a negative way.

That closes my testimony, Mr. Chairman.

Mr. JOHNSON. Mr. Chairman, this concludes the National Congress of American Indians' and the National Tribal Chairmen's Association's testimony. We thank you for the opportunity to present our statement at this time.

Senator MELCHER. We would like to have these points clarified. Title IV of the Indian Child Welfare Act requires that the Secretary of the Interior prepare a report on the feasibility of providing Indian children with schools located near their homes. Do you believe boarding schools are still necessary in some cases?

Mr. JOHNSON. Yes. At this time I feel that boarding schools are necessary; that the public schools are not meeting their needs; and that there are not enough funds for tribal schools in many areas.

I understand the Hopi Tribe is finally getting a high school. This is through the Navajo-Hopi Act that is presently before President Carter for signature.

We think that at this time boarding schools are necessary and that they will be necessary in the future.

Ideally, we would like to have the children as close to home as possible, but the public schools are not meeting the neeeds of most of the Indian children who attend public schools.

Senator MELCHER. Does the NCAI feel that a combination of Johnson-O'Malley and the Federal impact school aid is the proper way to finance Indian children's education?

Mr. JOHNSON. I would think that that would be a proper mix at the present time.

Mrs. METOXIN. Mr. Chairman, I have some comment on that. I have read the study and I am the president also of the Great Lakes Intertribal Council Education Committee representing all 11 tribes in the State of Wisconsin.

We have found that there are some problems with Public Law 874 and Johnson-O'Malley funding simultaneously to public schools. I think that if there were additional leverage control by Indian people over Public Law 874, there would neither be overlapping or supplanting in that the funds could be applied for maximum services to Indian students.

Senator **Melcher**. Thank you all very much.

Our next group of witnesses is from the Navajo Nation—Edward T. Begay, councilman and chairman of the education committee and chairman of the Navajo Area School Board Association from Window Rock, Ariz.; Virginia Daniels, 561 Task Force, Navajo Division of Education, Window Rock; Joe Pierson, Navajo Division of Education, Window Rock; Dr. Annie D. Wauneka, member of the executive board of the Navajo Area School Board Association, also from Window Rock; and Verner Duus, executive director of the Navajo Area School Board Association.

Are you all here?

Mr. **Begay**. Yes, sir.

Senator **Melcher**. Who is going to speak first? Edward?

Mr. **Begay**. Yes, sir.

STATEMENT OF EDWARD T. BEGAY, COUNCILMAN; CHAIRMAN, EDUCATION COMMITTEE; AND CHAIRMAN, NAVAJO AREA SCHOOL BOARD ASSOCIATION, WINDOW ROCK, ARIZ.; ACCOMPANIED BY: VIRGINIA DANIELS, 561 TASK FORCE, NAVAJO DIVISION OF EDUCATION; JOE PIERSON, NAVAJO DIVISION OF EDUCATION; DR. ANNIE D. WAUNEKA, EXECUTIVE BOARD, NAVAJO AREA SCHOOL BOARD ASSOCIATION; AND VERNER DUUS, EXECUTIVE DIRECTOR, NAVAJO AREA SCHOOL BOARD ASSOCIATION

Mr. **Begay**. Thank you, Mr. Chairman. My name is Edward T. Begay. I am a member of the Navajo Tribal Council and am also a member of the Education Committee of the Navajo Tribal Council and president of the Navajo Area School Board Association.

You have introduced the people who are here with me. On my right is Dr. Wauneka and Mr. Joe Pierson. On my left are Verner Duus and Virginia Daniels.

Mr. Chairman, I would like to express appreciation to you for extending to us the invitation—in your letter of July 1980—and the courtesy of being part of your oversight hearing on Public Law 95–561.

The Navajo Area School Board Association prepared a statement to be presented to the committee, which outlines the various areas of concern that affects the Navajo Area School Board Association's membership.

Second, the Education Committee of the Navajo Tribal Council adopted a resolution wherein we approve the statement that is prepared and presented to members of this committee in which are outlined the various areas of concern effecting the Navajo people regarding the new law.

Rather than reading the prepared statement, I would at this time briefly review some of the concerns that we have in joint testimony from the entire Navajo area.

Mr. Chairman, one area that we wish to present to you is that the education bill that was passed by Congress, and whose regulations are in the process of formulation and implementation, affects 350 locally elected school board members on the Navajo Reservation. In that light, there is quite a bit of responsibility and delegation of authority that was enacted with the law.

Along with the responsibility in carrying out the law, there is also the delegation of authority to Mr. Barlow as the head of his organization, the Bureau of Indian Affairs at the Washington level.

One of the specific areas concerns part A of Public Law 81-874 and we wish to address it here, so that we can hopefully get some of these problems alleviated in the form of amendments. As it is now, it is not implementable and we do not have the remedies to correct areas where it is not in the best interest of the Navajo Tribe.

It seems that the way it is now, it is impossible to work with.

Another area I wish to address, Mr. Chairman, is the Navajo Tribes wish to contract Navajo area BIA education functions. It is really a frustrating situation, even though the law is starting to have an effect on the program.

The implementation process under Public Law 95-561 and the regulations that we are starting to work with are to us chaotic and there are many things that contribute to this. One of the biggest things, we feel, is that the task forces that were created are working separately, and it seems, therefore, that the continuity was not there in time.

Also, it seems that a change of personnel at the higher levels, which personnel were given responsibility for the implementation, added to the chaos.

Very few people had continuity in working with this. They did the best they could and we appreciate their dedicated endeavors to that end.

Another major concern that we have is the status of school construction. We understand that there was an $8 million study conducted by the Bureau of Indian Affairs, which funds came off the top of that fiscal year's appropriation. I understand that the findings and recommendations have not been made public.

We are very much interested, from the Navajo's standpoint, in this study. We have quite a number of priorities pending in this area.

I also understand that the findings and procedures are so cumbersome and unrealistic that it is very hard to follow it through and get ones needs fulfilled by the process.

Another area I wish to point out is that of the regulations and the policies mandated by Public Law 95-561. We are under the impression that the Federal Government did finally define the roles and responsibilities, but the policy says that comprehensive education for all Indians from early childhood through life is what the role should be.

Therefore, it sort of ignores the States' role and does not even mention it in the guidelines or in the law. This creates a hardship for our school on the Navajo Reservation when it comes to working these out.

Another item I wish to present to you is the function of transfers. This has not been accomplished. There are so many gray areas. One thing that readily comes to mind is support service of positions. Now that these different departments are involved in the areas of education, personnel, and facilities management, it is very hard.

The school boards will be contracting with personnel and the principal, but the employees are subject to audit by a personnel officer who can cancel the contract for whatever he sees that does not follow the guidelines.

The law requires mandatory standards. We understand that voluntary standards have been developed. How can that be? Are they legal?

This has to do with getting our education system in place. The high goal was that we would have all of the necessary ingredients to attain the necessary credits for accreditation, but the smaller schools would not be able to comply because they do not have the resources or the personnel to work on these projects so that they could come in line with the guidelines.

Another area is funding. I think the job was pretty much in line when it was done, but in some other areas—I think some of them have been pointed out this morning—I think a possible revision is necessary to address the concerns that were expressed.

Right now, as it is, the largest schools would have adequate funding in the way that is expected of them, but small schools would suffer because of the very limited enrollment that they have. Therefore, they could not follow what is in the law and in the guidelines.

This lends itself to having long-time, status quo employees, who are expensive in terms of their longevity with the Civil Service. The small schools would have a hard time trying to meet the needs of their people in light of the budgets that are allocated to them.

Another area is personnel. Indian preference must have something to do with the selection of personnel. As I understand it, in the conference there was a compromise version. The House version, I understand, was what we Navajos were hoping would come to pass.

I understand that the Indian preference only has to do with the Bureau of Indian Affairs category. If someone is coming into the Bureau's system or the travel system, it would not work out for them. Therefore, we encourage the Senate to consider an amendment in that regard so that we can work within the law that you have passed for the Navajo people.

All of these things, Mr. Chairman, and your intention and direction in passing the law—if everyone had a positive attitude in carrying them out, everything would work fairly well. But inasmuch as you and I know the things that were expressed here today, things are pretty hard because of the attitude of the Bureau of Indian Affairs in terms of their really putting their hearts into it and making the law workable.

In some places people are placed in a principalship over the objections of the local school board, even though the new law has come into effect. The advice of the local school boards were more or less ignored.

Another area is the furloughing of the permanent, full time positions. One of the objections of the school boards is that no consultation with the school boards occurred at all. That is another issue we wish to place before you.

Hopefully, you will take our testimony, Mr. Chairman, what we have written and what we have summarized for you, under advisement in making with some changes. The written statement will contain some things that we want to emphasize and will contain some things that I left out.

Thank you, Mr. Chairman, for the time.

Senator MELCHER. Thank you, Edward.

Without objection, your full testimony and submissions will be made a part of the record at this point.

[The resolution and statements follow. Testimony resumes on p. 29.]

TESTIMONY OF THE NAVAJO AREA SCHOOL BOARD ASSOCIATION

The Navajo Area School Board Association is pleased to have this opportunity to bring various concerns to the attention of this Senate Committee. Public Law 95–561 was greeted by the school board members on Navajo with a great deal of hope that the type of powers and responsibilities desired by board members had finally come to pass. The Association had been involved with the development process for a full two years prior to the passage of the bill and had numerous opportunities to provide input. Since passage of the law, it has been felt that the opportunities to influence the direction of the implementation have been very limited in spite of the fact that a couple of persons associated with NASBA have been represented on the task forces.

The development process has been uncoordinated and chaotic. There has been turnover in key positions within BIA and the person who was occupying the Deputy Assistant Secretary position appeared to have one foot out the door for months prior to his leaving. Since he was the main person charged with the implementation phase of the law, this had a very negative result. The efforts of the task forces have been very disjointed and efforts by many task force members to get the type of coordination necessary were ignored. It has been as though 12 different painters were assigned to paint a portion of a picture. These painters were placed in 12 different rooms and given only vague instructions as to what they were supposed to paint. None of the painters had much of an idea what the other painters were doing.

It would have been relatively easy to have put the painters in the same room and given them specific instructions. Instead, requests for policy decisions from the Central Office were greeted with such decisive answers as "Well, what do you think?" or "Let's do it both ways and see which is best." Some regulations were published for comment prior to review by the Solicitor's Office. Other regulations such as the school board regulations were held up in the Solicitor's Office for months and have still not been published for comment.

Selection of the task force members and their assignment to the task forces were completely without rhyme or reason. For example, of the members selected to serve on the Public Law 874 section, only one had any direct knowledge of this very complex law; the same was true of the student rights and responsibilities task force, etc. It is our unfortunate conclusion that the implementation process of this law has been disastrously chaotic and might even have been deliberately sabotaged.

Next we wish to testify on major portions of the law and the problems with the regulations themselves and the implementation of what has thus far been developed.

POLICY REGULATIONS

NASBA was pleased with the inclusion in the law of a mandate for the BIA to develop a policy statement on education. For too long the Bureau has not answered the basic question of what it is doing in the field of education. The policies developed, however, do not answer the basic question and strike us as the type of rhetoric which will be ignored and forgotten by the BIA. Indeed, there is little else that the Federal government is able to do with them. The regulations assert that "it is the responsibility and goal of the Federal government to provide comprehensive education programs and services for Indian and Alaska Natives."

Also, that it is the "mission of the Bureau of Indian Affairs, Office of Indian Education Programs . . . to provide quality education opportunities from early childhood through life . . .". This in effect sounds like a guarantee that the Federal government will fund all programs of an education nature for all Indians anywhere in the country. Those tribes who were never served by a BIA educational system or who have not been served by such a system for years now apparently have the right to receive such services. Congress apparently has the responsibility to appropriate millions of dollars for construction of education facilities for these tribes, guarantee millions of dollars of increased operational costs for such schools, guarantee complete funding for (early childhood) programs for all Indian children, guarantee full scholarships for all Indian people interested in college, GED or any other type of adult education programs, etc. The basic questions of what the Federal government's role in Indian education is has not been answered because the policy regulations assert that its role is to do everything. We do not believe it likely that Congress is willing to authorize the necessary dollars nor to reverse the unwritten policies of so many years that the Bureau was phasing out of education in favor of the states assuming their constitutional responsibilities with regard to their Indian citizens. Policy regulations make no mention whatsoever of coordination with public schools and is confusing, if not contradictory, concerning where Indian children are eligible to attend schools.

TRANSFER OF FUNCTIONS

The law as well as the regulations are rather vague with regard to the transfer of functions. The Director, OIEP, is to assume line authority over education in the Bureau of Indian Affairs. However, it is very unclear how support services are to be handled. Currently, administrative branches, for example, contracting, personnel, facilities management, etc., are positioned in such a way that the Director has no authority over them and they can actually second-guess education personnel who are making management decisions. For example, after an employment contract is executed between an employe and the school supervisor, it is sent to the Personnel Office for audit. If the Personnel Officer reviewing the contract believes that the salary determination or other determination made by education officials is incorrect, the Personnel Officer can unilaterally cancel the contract. This type of set up not only undermines the authority of education officials but also brings into serious doubt whether or not a real contract system, as mandated by Congress, was developed by the BIA.

The reorganization of the Bureau in compliance with P.L. 95–561 is still in progress. Thus far, it has been resisted by numerous elements within the BIA and the prevailing attitude of many officials is one of disbelief that anything has actually changed.

STANDARDS

Public Law 95–561 mandated that the Bureau of Indian Affairs develop long overdue educational and residential standards. A task force has worked long and hard to develop proposed standards. In doing so, the experience of such accrediting agencies as North Central have been widely utilized. Unfortunately, a process such as North Central utilizes is not what the law calls for. The proposed standards are established in such a way that they are voluntary. A local school can choose whether or not it wishes to belong to a new accrediting association. However, the law seems very clear that the standards are mandatory and that a local school must meet them or provide a plan by which it will meet them as soon as possible. There is an option for a tribe to waive such standards and, with Secretary approval, establish its own.

We have two comments of a general nature on the standards themselves: The standards are of such a nature that large schools will be able to prepare the necessary paperwork and will have the necessary facilities and capabilities to meet the standards. It is unlikely that small schools with a shortage of personnel and facilities will be able to meet the standards. This is unfortunate because if the idea catches on in Navajo country that there is something desirable about attending an accredited school, it will tend to favor enrollment in large boarding schools and discourage enrollment in local day schools.

Funding

A good deal of excellent work was done in developing the Indian School Equalization Program. Provisions were also made to revise the formula after a year of experience. Our main comment on the allotment formula is that it tends to adequately fund large boarding schools but underfund small day schools. It also tends to encourage enrollment of local students as boarding students rather than as day students since a student thus enrolled generates twice the funding that a day student would generate. Again, we see the very undesirable unwritten effect of the formula to encourage attendance at large boarding schools over local community schools. We believe that both such schools have their place but would like to see a formula that encourages attendance at local day schools whenever possible.

Secondly, we believe the formula must be revised to take into account the presence of long established (and, therefore, expensive) status quo employees. Currently, no provision in the funding is made for such schools with the effect that some schools, particularly those at the more desirable locations, must spend an inordinate amount of their total funding on personnel.

Finally, we are encouraged by the Bureau's determination to stop what has been labeled the "end run". This is the process by which certain schools, usually contract schools, have lobbied and been highly successful in receiving more than everyone else. Often the need for such additional funding has been caused by mismanagement and a general belief that there is a big bag of money in Washington and that all one has to do to get some more is to put pressure on the right people. High-powered, expensive attorneys who know the right people are then hired to do exactly that. It is not comforting to review the record and realize how often they have been successful while schools working through the "proper channels" get nothing. Currently, the Bureau is in court over a challenge by one contract school that refuses to believe that there is an equalization program within the BIA. We encourage the Interior to make equalization stick and to do whatever is necessary to win this battle.

PERSONNEL

The intricacies of the personnel system in the Federal government and the effect on the implementation of Public Law 95-561 are matters of deep concern to school board members. When a question arises concerning the authority of the school board in certain areas we are usually told that since the law did not waive certain sections of the U.S. Code, that such and such is impossible. For example, questions have arisen with regard to veteran's preference. School boards make a selection determination, however, they are told by the Bureau that a barely qualified veteran must be selected over more qualified non-veterans unless the Area Personnel Officer determines that the school board can pass over a preference eligible. This apparently is very difficult.

Another concern for school boards is regarding the implementation of Indian preference. The School Board Association has long maintained that Indian preference should have something to do with the preference of the Indians, in this case school board members. What end is served by the process of forcing one Indian, often from a different tribe, down the throats of other Indians? The waiver provision of Indian preference was intended to maintain the policy of Indian preference while giving the possibility to the Indians being served of waiving Indian preference provisions. Now that section has been interpreted by a Solicitor in the Interior who was formerly a member of the staff of the Select Committee on Indian Affairs that Indian preference can be waived in favor of non-Indian employees of the Bureau of Indian Affairs only. This interpretation denies the intent of this waiver and creates a maze of confusion whenever employees are to be selected. We encourage the Select Committee on Indian Affairs to seek an amendment of the law in which the authority to waive Indian preference rests clearly with the local school board. This decision should not be second-guessed by Congress or the Bureau personnel offices.

Another determination which appears illegal to us is the determination which excludes various positions located at the school level from being considered education positions under the new system. In this category are school bus drivers, school cooks, school office clerks, etc. We maintain that the activities these persons are involved in are "related to the field of education". In maintaining that they do not come under the new system, it is clear that two personnel systems will be maintained in the Bureau of Indian Affairs. These employees will not be subject to selection determination by the school board and for most purposes will not be subject to other school board determinations. One personnel system will apply to them and another personnel system will apply to the education positions. We ask aren't things complicated enough already and we see absolutely no justification for not including them in the new system.

We are also very concerned with what we might call the prevailing attitude on the part of Bureau educators as well as non-educators regarding the personnel system. We often hear Bureau officials speaking using the old terminology. For example, "school boards will be consulted and they will make recommendations . . ." We also witness unbelieveable acts of illegality which clearly demonstrate that many Bureau officials believe that nothing has changed. We are telling you that the law is often being completely ignored. We may very well end up in court in order to prove through litigation points of law that should be obvious to any reasonable human being. For example, on May 12, 1980, the Navajo Area Director, acting with authorization from the Director, OIEP, placed an individual as the principal of a school in a status quo position over the outspoken objections of the school board. That school board subsequently requested the Association to assist in taking legal action against the Federal government. We are currently appealing the action administratively. This action was taken six months after the new personnel system supposedly went into effect and all vacancies in education positions were to have become contract positions subject to the provisions of Public Law 95-561. We are attempting through training programs to inform school board members as to what their powers under the new law are. Such actions of the Bureau undermine that effort and undermine the intent of the law.

We know you will receive testimony from other witnesses regarding the furloughing of permanent full-time employees in two of the five Navajo agencies. In one of these agencies, school board review was not sought and in another school board approval was sought after the decision had been made. Again, the timing of this management decision was a disaster. School board members on Navajo do not tend to be outspoken militants wearing dark glasses. They tend to be elderly individuals with little formal education who have long been in an advisory role.

It is not easy but it is intensely desirable for these people to gain the confidence and expertise to really serve as the policy making body for the local schools. It is no secret that efforts of both the states and Federal government in Indian education have largely failed. With these boards serving as the right arm of management, perhaps these schools can begin operating relevant successful programs for Indian children. For such acts as the changing to furlough status of approximately half the employees in two agencies to be done without the consultation of board members and in other cases over the objections of school boards, is a tragedy at a time when board members are beginning to "test their wings" in exercising their new powers under the law.

CONCLUSION

The promise of P.L. 95-561 has largely been negated through inefficiency, lack of coordination, lack of commitment, and outright chaos. However, though we have some severe misgivings concerning some of the official regulations which have been developed, we feel that a lot of good work has also been done and that the regulations are largely workable if given a proper chance. One of the major points of this law was that local school boards were to assume effective control over the schools they serve. If this portion of the law is not implemented properly, the rest of the provisions, no matter how successfully implemented, will not result in quality educational programs. There is much resistance within the Bureau to this intent of legislation and much distrust and fear of these locally selected board members. Concerted efforts seem to be being made at many levels in the BIA to subvert this intention of the law. We need your assistance through this oversight hearing and, hopefully, through other activities to insure that this most important portion of the law is fully implemented by the Bureau. This requires that the Congress be uncompromising in the interpretation of this part of the law.

We appreciate your interest in Indian education.

TESTIMONY OF THE NAVAJO TRIBE

The Navajo Tribe has taken a significant interest in the development of the concepts incorporated into Public Law 95-561 long before they became law. The Tribe has participated in hearings before and after the law came into effect and welcomes the opportunity to once again comment on the progress of the legislation before a Select Committee. The timing of these hearings is important. Some portions of the law now have a year's experience behind them while others, one wonders, may never see the light of day. Still other sections may remain no more than written words unless timely action is taken now to ensure that the intent of the law is upheld through some form of effective enforcement.

The first area of concern is Part A that deals with public schools through the Impact Aid funding process. The funding under Public Law 81-874 is critical to Indian education and should be left intact as it now goes to the public school. Our concern is that the intent for more effective Tribal influence on the public schools cannot be realized with the procedures proposed under this section. Let's take

New Mexico for example. The funds from Impact Aid are non-categorical and therefore become incorporated into the general operating budget; they cannot be evaluated in terms of specific consequences. The option of holding up the school's 874 funding would penalize the children and cost local Navajos their school jobs.

Under New Mexico funding, the school would not be affected because the State would pick up the money lost under the Impact Aid funding. Finally, there is no money under Public Law 93–638 for constructing a school and setting up an education program should the Tribe exercise its option to pull the Indian students out of the public school. Is this section of the law really feasible? At present, the Tribe cannot support the retention of this Part of the law since it cannot be implemented. Under the policy section, we concur with other testimony to be presented that the basic issue of where the Bureau's responsibility for Indian education ends and where the public school's responsibility begins has not been made clear. The Tribes are constantly being encouraged to develop boundaries and institute policies to stabilize enrollments and therefore guarantee full use of facilities. This is merely passing the buck since State and Federal governments established the educational systems that resulted in the current confusion between their school systems. It is the government's responsibility to establish policy here and to see that the policy is upheld. Does the Bureau intend to uphold its earlier policy of phasing out of education programs, leaving these to public day schools and only maintaining residential support services under its responsibility?

FUNCTIONS

The Director of Indian Education Programs was supposed to assume direct line authority over Area and Agency programs under Public Law 95–561, but this authority has still not been cleared through the Interior Department's Solicitor's Office. Who is in charge? The Navajo Tribe has been attempting to contact Area education functions for over a year now and has had to run from the Washington Office to Navajo Area Office to Navajo Area Director's office to Area Personnel to Agency Education offices (five in the Navajo Area) to Facility Management to Area Contracts Office to the Area Public Law 93–638 Contracts Office. There is neither centralized nor definite authority for the Tribes to deal with and the current contract application could therefore drag on and on until such authority is established and implemented. The Functions task force recommended that Contracting Officer Representatives should remain at Area level and we concur; however, the Navajo Area Personnel Office has just initiated a reduction in force on the Navajo Area Education office removing [illegible] that will later have to be replaced in order for this function to be exercised at the Area level. We support both contracting and facility management functions being retained at the Area level on Navajo with its sixty Bureau schools. The schools are still having problems getting routine and major maintenance completed because these functions have been separated from education administration at both the Area and local levels. The reduction in force and personnel regulations came together in creating unfair financing to the schools. Within the competitive area definitions, senior status quo personnel, with high salaries, can "jump" junior, lower salaried staff at any school within the competitive reduction in force area creating havoc with the school budget; again, the lower funded, smaller schools (usually day schools) suffer.

STANDARDS

The law says that the standards are mandatory but the regulations state that they are voluntary. We support the law. However, smaller schools should be given the technical and financial assistance, available to larger schools, in order to enable them to meet the established standards. This assistance should come from Agency and Central office levels. In the area of funding, the larger schools are also better off than smaller ones. It is a policy of the Tribe to encourage day schools but the allotment formula is rewarding the large boarding school. Financial incentive should be made available to the smaller day schools under the formula funding.

CONSTRUCTION

The comments under policy are especially pertinent to this section. The application for school construction used in the Navajo Area asks how the new program will fit in with Tribal plans. The answer to this question is never verified with the Tribe when Bureau officials make a visit to the community in order to verify their application. No definition of "Tribe" has been put forward by Bureau facility officials and communities can therefore answer this section any way they choose and designate any person they wish as a representative of the Tribe. Again, no coordination has been developed with the public school systems in the construction area and the consequences are an unstable school enrollment, illegal recruitment of students by the Bureau schools (i.e., contrary to the congressional intent expressed under Public Law 95–561) and both under and over utilization of facilities. The school facility construction and maintenance Divisions must be brought back under Education administration rather than separated under another Division, as is presently the case, in order to be more fully responsive to local education needs.

Local schools on the Navajo Reservation are still boarding up broken windows, suffering leaking ceilings and poor plumbing because facility maintenance is maintained separate from the local school budget and supervision; these are the same problems uncovered by the Federal government more than four years ago and referred to in the published Hearings before a Subcommittee of the Committee on Appropriations, House of Representatives (Construction Overview, P. 14), 1977.

The usual Bureau policy of waiting for time to allow things to return to their original, non-working state has succeeded once again. Why hasn't the Bureau's national survey of facilities been published and circulated. It was due to be published last November and, after using $8 million dollars of school construction money appropriated for that fiscal year, the Tribes would at least like to know what the findings were.

Finally, the Bureau's policy and guidelines for completing an application for school construction are unrealistic. Communities with no resources are expected to have the time and money to identify all students in their area who will be attending the proposed school, to develop a comprehensive education plan for them and to project a realistic enrollment over a five year period when the Bureau itself has failed to do just these tasks in its long, expensive history. When an application has been completed, the Bureau sends out a representative to verify it; in other words, to tell the community that they did or did not do the Bureau's homework correctly.

The Bureau has a long way to go to fully implement Public Law 95–561. So far, about half of the regulations have been completed but often in reverse order (e.g., funding regulations before standards, policy and personnel regulations) and also with little coordination between task force areas. The promise of the law is still potentially able to be realized; that is, quality education and effective Tribal and local control both of and for Indian education. However, another year of confusion over implementation and coordination such as was experienced this year, will probably result in a Bureau education system indistinguishable from the one preceding enactment of Public Law 95–561.

Thank you for the opportunity to make our concerns public.

WINDOW ROCK SCHOOL DISTRICT NO. 8
Fort Defiance, Ariz., July 22, 1980.

To the Navajo Tribal Education Committee.

I believe that the Education Committee should take a close look at Impact Aid (Public Law 874 as amended by Public Law 95–561) and develop guidelines for all schools serving Navajo students which receive these funds.

The Arizona schools on the reservation made an effort to initiate cooperative programs last year but, due to the pressure of other activities, there was not much follow-up.

Better policies for parental involvement need to be developed and implemented by all schools. The Tribe is also going to have to have guidelines for handling grievances. There is considerable controversy regarding this section of the bill and a number of schools are not making any effort to fulfill the legal requirements.

We will need the strong support of the Tribe also in our efforts to change the new school finance law in Arizona. We expect to initiate a class action law suit on behalf of Arizona public schools serving Indian students in the near future.

Sincerely,

PATRICK E. GRAHAM,
Federal Projects Director.

QUESTIONS REGARDING THE PUBLIC SCHOOL EDUCATION OF CHILDREN RESIDING UPON INDIAN LANDS

(Prepared by: Patrick Graham, Special Projects Director, Window Rock School Districts)

INTRODUCTION

This brief paper has been prepared to outline a number of concerns regarding Impact Aid (Public Law 81–874, as amended by Public Law 95–561). As representatives of an Arizona public school district wherein the enrollment is 95 percent Indian, the land base is 99 percent Indian lands, and some 40 percent of the basic operational funds are obtained from Impact Aid, we have been very involved in the efforts to implement the new provisions of the law.

There were some significant changes made in Impact Aid, particularly as it relates to residents upon Indian lands, including the 25 percent increase in entitlement and the expanded regulations and criteria concerning parental involvement.

However, a number of factors have combined to limit and/or diminish many of the promises made or implied by Public Law 95–561.

BACKGROUND

Members of Congress must be aware that Indian parents and tribes had very little knowledge of Impact Aid in past years. Little or no effort was made by school officials to inform anyone about the program. Impact Aid received by school districts simply went into the general operating fund. The only parental involvement was in filling out the annual survey forms.

When Public Law 95–561 was enacted, most Indian tribes and organizations were most concerned with Title XI, Part B, which was designed to improve the BIA educational system. Few people paid much attention to Title XI, Part A, the changes in Impact Air, which actually affected a much larger number of Indian students. Awareness of the significance of Part A is spreading rapidly, but a number of complicating factors are affecting real implementation of the law.

It is our perspective that many districts developed some kind of parental involvement policy, as required by Public Law 95–561 and resultant regulations, without ever actually involving Indian parents. The paperwork was submitted to the SAFA office. The SAFA officials, who had very limited experience in Indian education, encountered a number of problems in trying to review the documents and determine if they met the federal criteria.

These problems were compounded when many school districts began complaining to their Congressional representatives on the basis that SAFA was taking too long or was being too strict. A good deal of pressure was apparently placed upon SAFA officials to release FY 80 payments, even if they questioned the documentation that had been submitted.

Grievance hearings have also been started in several parts of the country, but adequate procedures and guidelines for these have not yet been developed and hearing officers with an appropriate background in Indian education are not available.

There appears to be a strong likelihood that controversy surrounding Title XI, Part A, of Public Law 95–561 will increase, and that additional efforts need to be made by Congress to straighten out the situation as soon as possible.

PROBLEM AREAS

1. *Effective implementation of the law and regulations.*—If the provisions related to Indian parental involvement are to have any meaning, the SAFA office must have the authority and develop procedures, to enforce them. Many school districts would prefer to have the extra money without having to comply with the parental involvement procedures. If these are not enforced, the past history of Indian education indicates that few real improvements will be made.

2. *Grievance Hearings.*—Guidelines and procedures regarding these must be developed and implemented. This must include the use of hearing officers who are knowledgeable regarding Indian education, especially in the areas where the grievances occur.

3. *Equalization Programs.*—Conflicts have developed in states which "equalize" Impact Aid. School districts say that meeting federal criteria should be a state

responsibility since the state is taking credit for the Impact Aid funds; the state says it is the district's responsibility and Indian parents continue to be left out.

4. *125 percent Entitlement vs. Equalization.*—The increased entitlement for Indian students is attracting the attention of many states. Arizona has enacted new school finance legislation which precludes some districts from even expending the additional funds unless they are used to reduce local taxes. It is likely that a class action suit on behalf of schools serving Indian students will be filed in Arizona soon.

5. *Information.*—The SAFA office has traditionally distributed information through the state departments of education and to local school superintendents. This means many tribal officials and Indian parents do not receive the necessary information. As mentioned, few Indian people have had any knowledge of Impact Aid in the past.

SUMMARY

These are a few, brief concerns. Realizing the heavy workload that Congress has, we strongly advocate comprehensive over-sight hearings regarding Title XI, Part A, of Public Law 95-561. We believe that this law can significantly improve educational programs for Indian students, but this will happen only in isolated instances unless further Congressional or legal action occurs.

Senator **Melcher.** Dr. Wauneka, do you have some remarks to make at this time?

STATEMENT OF ANNIE D. WAUNEKA, MEMBER, EXECUTIVE BOARD, NAVAJO AREA SCHOOL BOARD ASSOCIATION

Dr. **Wauneka.** Thank you, Mr. Chairman. I have a brief statement to make.

We are very happy to be here to discuss our problems.

In order to emphasize the problems of our schools, I want to comment on two areas that concern many local board members in the Navajo Nation. The first is enrollment.

BIA school enrollment has stabilized in the last couple of years. Prior to Public Law 95-561 it was the unwritten policy of the BIA to phase out of education. There was a stipulation that students who lived within 1 mile of a bus route for elementary students and 1.5 miles for high school could not attend a BIA school.

Though this rule was not strictly enforced, it did create a situation of declining enrollment in BIA schools as more and more Navajos live closer to the better roads. The roads were also used by public schools as bus routes.

Public Law 95-561 now indicates that tribal choice is to be the method for determining who goes to public school and who goes to BIA school.

Senator **Melcher.** Doctor, I want to interrupt you here. Edward has talked about very small schools and I do not know what you mean by a very small school. What is the enrollment of a very small school?

Dr. **Wauneka.** Are you questioning him?

Senator **Melcher.** Yes, because I want to use the answer in following up with questions to you on your testimony.

Dr. **Wauneka.** A small school means a little community school——

Senator **Melcher.** Yes; I went to little schools too, but I do not know whether we are talking about the same thing. I went to a high school where we had 50 or 52 in the total enrollment. Is that what you are talking about, schools of that size?

Dr. **Wauneka.** I do not understand your question yet.

Senator MELCHER. I call a small high high school 50 to 60 students. Are we talking the same language? Is that your meaning of small?

Dr. WAUNEKA. I believe so; yes.

Senator MELCHER. What about a grade school? Is a total enrollment of 100 small in grade school—an eighth grade school? Would that be small?

Dr. WAUNEKA. Yes.

Senator MELCHER. Are some of them as small as, say, 30 in all eight grades?

Dr. WAUNEKA. I think the smallest is about 60.

Senator MELCHER. How many Navajo students are enrolled on the reservation?

Mr. DUUS. There are about 17,000 to 18,000.

Senator MELCHER. Are any of the 17,000 to 18,000 in BIA schools, or are none of them in BIA schools?

Mr. DUUS. They are all in BIA schools. There are about 33,000 enrolled in public schools.

Senator MELCHER. There are about 33,000 Navajo students enrolled in public schools and 17,000 to 18,000 in BIA schools, and that includes grades 1 through 12.

Mr. DUUS. Yes.

Senator MELCHER. Please proceed, Doctor.

Dr. WAUNEKA. Thank you very much. I guess that kind of settles the question.

I will go on by saying that, therefore, enrollment seems to be determined by the parents and students involved. Unfortunately, a student might enroll at one school one week, not get along well, and enroll at another school the next week. He might also jump from one BIA school to a public school and back to another BIA school.

Furthermore, the receiving schools generally do not ask questions since a considerable dollar figure is attached to each student. In my home area, Wide Ruins, Ariz., we learned that there has been active recruiting by other BIA schools. We are beginning to refer to this as bounty hunting.

When a funding formula is established it determines policies. These polices may contradict stated policies but they are the real policy.

For example, a boarding student brings in more dollars than a day student. Therefore, it will be the unstated policy of schools to encourage attendance as boarding students even where it is not necessary. This contradicts the written policy that students should attend on a day basis whenever possible.

I want to also emphasize another matter which we regard as the proper way to view school boards after Public Law 95–561. We have been hearing the term "management prerogative" with reference to various matters when the BIA wishes to ignore Public Law 95–561 mandates such as the furloughing of full time permanent positions through RIF procedures. They ignore the budget authority and policymaking authority of the local school boards through these management prerogatives. To our way of thinking, this is completely false.

School boards are to be viewed as part of management, not some disinterested third party. If Public Law 95–561 means what it says when it states that the primary purpose of the act is "to facilitate

Indian control over Indian affairs in all matters relating to education," then school boards must be considered part of management. The prevailing view of consultation means involvement on nonimportant items and allowing boards to rubberstamp the decisions of Bureau officials. Boards are then ignored when they refuse.

It will take some backbone on the part of education officials to insure that the intent of the law is followed. It will take some faith in locally elected school board members and some real belief in the principles of self-determination to reverse this trend of many years.

It is a battle worth fighting and that is why we are here.

Senator MELCHER. I can assure you, Doctor, that Public Law 95-561 means just that—that the school boards are going to run the schools and make the decisions. That is what the law is intended to do.

It is not even a question of Indian self-determination. It is a question of how much right does a parent have, through people that they select to run their schools, to determine how their children are educated. That is basically American. It started a long time ago, but it is finally catching up with our native Americans. It is about time too.

Dr. WAUNEKA. Mr. Chairman, may I make one more statement?

Senator MELCHER. Surely.

Dr. WAUNEKA. It is just a little one. Right now, today, the Navajo Area School Board Association, with a membership of over 30, is meeting in Flagstaff. They are waiting for us to return and bring them good news.

Thank you.

Senator MELCHER. You know, if it is good news that that is what the law means, you can give them that good news, but I think the bad news is that it takes a lot of money and because of inflation, education costs continue to rise. That part of the news is not all that good. It is hard to scrape enough dollars together.

Can you tell me this? I think there are others of you who will testify and you may touch on this. Do you have some recommendation on how we can better assign Indian school equalization funds on a formula to alleviate budgetary problems that small schools face?

Edward, you mentioned this? Do you have some recommendations for us? If you have a small enrollment, a lot of the overhead will be there anyway to operate the school and there may not be enough children in it to bring it up on a formula basis, unless you change the formula somewhat for the size of the school.

Do you have some recommendations along that line?

Mr. BEGAY. Mr. Chairman, if I may, I would like to defer that to Mr. Duus and then to Mr. Pierson.

Mr. DUUS. Thank you. I have a couple of comments on that. The first is on the small schools. We find that, on the Navajo Reservation at least, the larger boarding schools are the best and most adequately funded. They are, kind of, the beneficiaries of the equalization formula.

In many cases, they received substantial increases and they were best off to begin with. It just costs less money on a per capita basis to run a large school.

There was consideration in the formula for small schools. I just do not think it was enough and perhaps it did not extend to schools of certain sizes. For instance, a school with 150 students may be adversely effected by the formula. That is one thing.

Another thing is that there was nothing put into the formula to allow for these people called status quo positions. These are people who are still under the old civil service system. They are guaranteed the right to stay in those positions for life.

When a school, particularly those schools in desirable locations, has a whole lot of this type of employees, it then becomes a burden on the local school budget that does not allow for them.

Another thing is qualification. It costs more, of course, to hire a person with a master's degree than one with a bachelor's degree. School boards are going to be looking at that and will say, "We can get along with somebody with a bachelor's degree because we cannot afford someone with a master's degree."

That type of thing will tend to create a situation wherein the least qualified individual is selected.

Those are a couple of areas where I think some work needs to be done.

Mr. Pierson. I do not think I have anything additional to offer at this point. To save time, if you have any other specific questions we can respond to those.

Senator Melcher. Do you have any advice for us on the amount of the basic support under Johnson-O'Malley that public schools need to educate Indian children? If you have some ideas on that, we would appreciate hearing them, both about grade and high school students.

Mr. Duus. Basically, the school board association deals with Bureau schools. We are not primarily concerned with the public schools and do not have anyone with us from the tribal Johnson-O'Malley office. Those people might have something on that.

Concerning the basic support for the impact aid, I note that schools in Arizona are working up data on just how much that affects their schools' operations, which in their cases runs anywhere from 30 to 55 percent of their basic operation.

Senator Melcher. Is it not the general policy of the Navajos to move out of the BIA schools and into public schools?

Mr. Begay. Mr. Chairman, there are no set policies to work in that direction, but based on the expressions of the local communities, especially those in remote areas where electricity, running water, and paved roads are not in place, the parents have expressed a desire to have their children go to Bureau of Indian Affairs schools.

As Dr. Wauneka pointed out, there were guidelines established for mileage, but it was never set down as the rule. Simply the fact that I mentioned. There are some Navajo parents who are a bit more fortunate than others in that they live close to a paved road, so bus routes are available. There are even some dirt roads that have been placed under a public school system which run into problems in the wintertime when those roads are not passable.

Senator Melcher. Is it the general desire of the Navajos as much as possible to have their youngsters go to school during the day and return home in the evening—in other words, day schools? Do I understand you correctly on that, namely, that you prefer day school attendance?

Dr. Wauneka. As has been stated here, there are different groups that we have. The Navajos that are away from the roads have to go to a BIA school.

Senator MELCHER. Yes. I understand that.

Dr. WAUNEKA. We use the words "have to."

Senator MELCHER. They have no choice?

Dr. WAUNEKA. They have no choice. Those that are lucky and are privileged have their children go to public school or BIA school, and on weekends they go back and forth. I think this is very nice. We do not try to create a gap between the parents and the schools. We try to work it out so that they go home every weekend.

Of course, in public school they go back and forth every day. I think it is best managed in that manner.

Senator MELCHER. Thank you all very much.

Mr. BEGAY. Thank you, Senator, for your time.

Senator MELCHER. We will now hear from Clayton Erratt, executive director of the National Council of BIA Educators from Gallup, N. Mex.

STATEMENT OF CLAYTON ERRATT, EXECUTIVE DIRECTOR, NATIONAL COUNCIL OF BIA EDUCATORS

Mr. ERRATT. Mr. Chairman, my name is Clayton E. Erratt. I am the director of the National Council of BIA Educators.

I appreciate the opportunity to testify on the reduction in force action taken in two agencies in the Navajo area. The action is to change the permanent full-time employees over to subject-to-furlough status and lay them off for a period of time in the summer. We believe that this is in violation of Public Law 95-561 and the Bureau of Indian Affairs' own regulations.

Our concern arises from some 500 permanent full-time employees' receiving notice that they will be converted to career-seasonal status as of May 30, 1980. These people represent 25 percent of the permanent full time educational staff of the whole Navajo area.

Our position on this matter is in accord with the legal analysis of the law office of C. Benson Hufford, a copy of which is attached to our written testimony, which states the alleged violations. We ask that Mr. Hufford's analysis be considered an integral part of this statement.

I would like to make some quotes from the analysis. In a memo in January from the Acting Deputy Commissioner of Indian Affairs, BIA, it states that due to the phasing in of Public Law 95-561, some schools would experience severe budget cuts. Therefore, the Office of Indian Education Programs "may find it necessary to convert employees from full time to less than full time."

In late April education employees in two out of five agencies in the Navajo area began receiving reduction in force [RIF] notices such that as of May 30 they would be converted to subject-to-furlough status. The reason given for this action was a change in funding allocations due to Public Law 95-561.

No general RIF action was taken in the other three agencies in the Navajo area.

> The act itself, and the regulations promulgated under it, were intended to protect status quo employees from the change in status attempted by this RIF action.

Therefore, this RIF of status quo employees is clearly in violation of the act and in direct contravention of the Bureau's own regulations.

> Status quo employees are civil service employees and are subject to the applicable dual compensation restrictions. Because of this, they should not accept the very same temporary employment and opportunity for increased earning capabilities that were available to the new contract employees.

* * * * * * *

> Assuming arguendo that status quo employees could be RIFed, the decision to invoke that action must be made by the local school boards and the local school supervisors. That was not done in this case. Rather, two Agency Superintendents for Education usurped the authority of the 14 local school boards * * * This unwarranted arrogation of the local school boards' authority flies in the face of the policy of the Act and regulations.

* * * * * * *

> Lack of sufficient funds can be a justifiable reason. But, there has been no substantial, reliable proof presented that all of the twenty-four schools lack funds.
>
> If there is a genuine lack of funds, such should have been established to the satisfaction of the local school boards prior to any formal board consideration of the RIF action. This was not done. Further, it seems unusual that only two of the five Navajo Area agencies experienced budget problems which required such a drastic action.

* * * * * * *

> The RIF action taken against permanent full-time status quo Education employees is invalid because it violates the protection afforded such employees under the Act and regulations, it violates the policy making authority of the local school boards and there is no actual budgetary reason to support the action.

Mr. Chairman, I would also point out that the information used by one agency to prove the need for the RIF action and the budget data provided by the other agency show us that funding cuts were not a reality in 70 percent of the schools in these two agencies. We therefore must wonder what the real motivation for the RIF action was.

We are disturbed by the length of time it took to receive information from the agencies under the Freedom of Information Act. It took at least 2 months and two requests to get whatever information the agencies were willing to provide. Correspondence in the second attachment to our statement shows the Bureau's inability to answer specific questions even from Senators and Representatives.

In connection with the proposed budget cuts, we have recently discovered that some Bureau employees are being detailed to the Washington, D.C. central office this summer. If there is a genuine shortage of funds for staffing the Navajo area schools, we wonder how the Bureau can pay travel expenses and per diem to these people on detail.

The council recognizes that Public Law 95-561 is recent legislation and that it is reasonable to expect some difficulties to occur during the early months of its implementation. We believe however that the implementation is running far from the intent of Congress and that the RIF action is but one spectacular example.

We hope that the outcome of these oversight hearings will be a full airing of BIA policy and practices and that the student population and the teachers and other educational personnel serving them will not suffer further as a result of inappropriate actions by the Federal agency charged with carrying out the law.

Thank you.

Senator **Melcher**. Thank you very much, Mr. Erratt.

The attachments to your statement will, without objection, be made a part of the record at this point.

[Memorandum of the law office of C. Benson Hufford with attachments; and memorandum of the U.S. Department of the Interior, dated April 24, 1980, with attachments follow. Testimony resumes on p. 68.]

ATTACHMENT I

MEMORANDUM FROM THE LAW OFFICE OF C. BENSON HUFFORD

Issue: Is the Reduction-in-Force action which changed the employment status of Education employees from permanent full-time employees to permanent seasonal, subject to furlough a valid action?

Conclusion: The Reduction-in-Force action is not valid because it was done in violation of Public Law 95–561 and because there was no reason for the action.

Background facts

On November 1, 1978, Congress enacted Public Law 95–561, 25 U.S.C. §§ 2001 et seq., otherwise known as the Education Amendment of 1978. This Act reorganized the educational services being offered to Indian youths through the Bureau of Indian Affairs and Bureau schools. One of the primary purposes of the Act was "to facilitate Indian control of Indian affairs in all matters relating to education." 25 U.S.C. § 2010. Among other things, the Act changed the allotment formula for allocating funds to each Bureau school (25 U.S.C. §§ 2008, 2009); authorized the promulgation of personnel rules and regulations for Education employees hired after October 31, 1979, removing those employees from general civil service regulation (25 U.S.C. § 2011); and enhanced the participation and authority of the local school board for each school (25 U.S.C. §§ 2009, 2011).

Sometime in January 1980, a memorandum was sent to Area Directors from the Acting Deputy Commissioner of Indian Affairs, B.I.A., stating that due to phasing-in of the formula requirement of Public Law 95–561, some schools would experience severe budget cuts, and therefore, the Office of Indian Education Programs may find it necessary to convert its employees from full-time to less than full-time. Accordingly, the memorandum rescinded a prior memorandum dated September 1, 1976, to allow for such a change. (See Attachment A.)

In late February and early March two of the five Agency Superintendents for Education in the Navajo Area, those for Ft. Defiance and Shiprock Agencies, notified the Navajo Area Personnel Office that certain education positions in their two agencies would be changed, through the use of Reduction-in-Force procedures (RIF), from permanent full-time to permanent seasonal, subject to furlough. (See Attachments B and C.) Approximately 150 Education employees in the Ft. Defiance and Shiprock Agencies, or basically all of the professional educators with the exception of principals and agency office staff, were affected by the RIF action decision. (See Attachment D.)

This decision to RIF employees was made by the Agency Superintendents for Education for the two concerned agencies. The action was not instituted either by the local school boards or the local school supervisors. Apparently some local boards were informed of the action and were asked to support or approve it, while other boards were never consulted on the action. Many of the local school board members, as well as agency school board members, were, and still are, confused about the action. The affected school boards are concerned about this matter because the decision to change the employment status of so many employees was done with complete disregard for the budgetary authority of the local school boards. (See Attachments E and F.)

Beginning in late April, 1980 Education employees in the Ft. Defiance and Shiprock Agencies began receiving specific notices of the RIF action. Employees were informed that as of May 30, 1980, they would be converted to permanent seasonal—subject to furlough status. The reason given for this action was the change in funding allocations due to Public Law 95–561. Numerous employees affected by the RIF action have filed grievances with the Merit Systems Protection Board.

No general RIF action has been taken in the other three agencies in the Navajo Area.

Legal analysis

A. The employment status of status quo Educational employees is protected by Public Law 95-561.

When Congress enacted Public Law 95-561, hereinafter referred to as the Act, it made specific provision for protection of the employment status of Education employees hired by October 31, 1979, status quo employees, 25 U.S.C. § 2011 (o)(1) provides in pertinent part:

" . . . the enactment of this Act shall not affect the continued employment of any individual employed immediately before the effective date of Subsection (a)(2) in an education position, or such individual's right to receive the compensation attached to such position."

Purusant to the Act, regulations were promulgated by the Bureau of Indian Affairs to carry out the legislative mandate. 25 C.F.R. § 31g.13 provides in pertinent part:

"(a) Status quo employees. Individually who were Bureau employees on October 31, 1979, with an appointment in either the competitive or excepted service without time limitation, and who are serving in an Education position, *shall be continued in their positions under the terms and conditions of that appointment with no change in their status or positions; . . .*" (emphasis added)

The Act itself and the regulations promulgated under it were intended to protect status quo employees from the change in status attempted by this RIF action. The RIF action has resulted from passage of the Act, affects a change in employment status of status quo employees and causes those employees to go without pay for an unspecified number of pay periods. This RIF of status quo employees is clearly in violation of the Act and in direct contravention of the Bureau's own regulations.

One reason for the adoption of the above statutory section and related regulation is to protect status quo employees and clarify their rights. This was made necessary because most status quo employees in Education positions hold job positions which have year-long employment requirements, and are paid accordingly. The Act, however, envisioned new employees to have job terms which coincided with the school year. As stated in Bureau regulation 25 C.F.R. § 31g.3:

"Positions established for regular school operations will be restricted to school year or program duration. Particular care should be taken to insure that year long positions are clearly required and involve essential 12 month assignments."

In the comments on § 31g.3 adopted by the Task Force which prepared the regulations, one commentator expressed concern that teachers would be placed in furlough status for the summer months. The Task Force responded to this by stating:

"The new teachers hired will be hired on a school year contract. The law exempts these people from the dual compensation laws and they may accept temporary employment during the time school is not in session." (emphasis added) 44 FR 65008.

The Act removed new Education employees (contract employees) from civil service jurisdiction, 25 U.S.C. § 2011(a)(1) and specifically exempted them from the dual compensation restriction imposed on civil service employees, 25 U.S.C. § 201(m). This was obviously done to facilitate the creation of job terms for a school year period without penalizing the employee by precluding employment for compensation for the balance of the year.

Status quo employees, on the other hand, are civil service employees and are subject to the applicable dual compensation restrictions. Because of this, they could not accept the very same temporary employment and opportunity for increased earning capabilities that were available to the new contract employees. This results in a substantial inequity to status quo employees. Obviously Congress enacted 25 U.S.C. § 2011(o)(1) to protect status quo employees from such inequities. This would protect their income while still allowing for the eventual transition of all Education positions to school year appointment as status quo employees gradually left the system.

Because the RIF action changes the employment status of status quo employees and reduces their right to receive compensation, the action is in violation of the Act and must be set aside.

B. Any RIF action must be instituted by the local school boards and by local school supervisors.

25 U.S.C. § 2009(b) provides that funds alloted to Bureau schools shall be spent in accordance with local financial plans which shall be prepared by the local school supervisor in active consultation with the local school board for each school. Consultation, as defined in 25 C.F.R. § 31h.60, means:

> "Soliciting and recording the opinions of school boards regarding each element in the local financial plans, as set forth below, and incorporating those opinions to the greatest degree feasible in the development of the local educational financial plan at each stage thereof."

Each local financial plan must be ratified in an action of record of the local school board. 25 U.S.C. § 2009(b); 25 C.F.R. § 31h.60(b). The local school board has the authority, on its own or in response to the supervisor, to revise the plan when necessary to meet needs not foreseen at the time the plan was developed.

The authority of the local school board to ratify, reject or amend the local financial plan is in accordance with the primary purpose of the Act which is to facilitate Indian control of Indian affairs in all matters relating to education. 25 U.S.C. § 2010; 25 C.F.R. § 31b.2. As stated in 25 C.F.R. § 31a.4 describing Bureau policies:

> "In carrying out its Education mission the Assistant Secretary for Indian Affairs or the Director shall:
>
> > "(4) Ensure that each agency or local school board shall be authorized and empowered to function as the policy making body for the school, consistent with the authority granted by the Tribe or Alaska Native entities served by the school."

It cannot be disputed that salaries of Education employees fall within the scope of the local financial plan. See generally 25 C.F.R. § 31h.62. Furthermore, a decision regarding the annual employment period of the educational professionals, whether it be six months, nine months or one year, is clearly a policy making decision which impacts directly on the services, programs and operational functioning of local schools.

Assuming arguendo that status quo employees could be RIFed, the decision to invoke that action must be made by the local school boards and local school supervisors. That was not done in this case. Rather, two Agency Superintendents for Education usurped the authority of the fourteen local school boards in the Ft. Defiance Agency and ten local school boards in the Shiprock Agency. This unwarranted arrogation of the local school boards' authority flies in the face of the policy of the Act and regulations. It is clear from Attachments E and F, letters written by Verner Duus, the Director of the Navajo Area School Board Association, that neither local nor agency school boards had been actively consulted or accurately informed of the RIF action or other possible alternatives to the supposed budgetary problems.

Because the RIF notices were sent to employees without proper participation and ratification by the local school boards, the notices and resulting change in status from permanent full-time to permanent seasonal—subject to furlough are in violation of 25 U.S.C. §§ 2009 and 2010 and the regulations (25 C.F.R. §§ 31h.61, 31h.62 and 31h.63, among others) and must be considered null and void. Accordingly, all employees affected by the RIF action should be returned to permanent full-time status.

C. There is no basis for agency-wide RIF of Education employees.

The RIF notice sent to affected employees stated that the action was being taken "because of a change in the funding allocations for Education Program." The logical inference from this statement is that all twenty-four schools in the Ft. Defiance and Shiprock Agencies are experiencing a budget deficit for fiscal year 1980. However, only seven of the twenty-four schools actually experienced a decrease in their funding allotment for fiscal year 1980. As evidenced by Attachment E, no proof was ever presented to any of the school board as to the necessity of the RIF action.

Even if the affected employees could be RIFed, which they cannot be as established in Part A above, the Bureau would have to establish that, besides being done in compliance with the authority of the local school boards, there was a justifiable reason for the RIF action. Lack of sufficient funds can be a justifiable reason. But, there has been no substantial, reliable proof presented that *all* of the twenty-four schools lack funds.

If there is a genuine lack of funds, such should have been established to the satisfaction of the local school boards prior to any formal board consideration of the RIF action. This was not done. Further, it seems unusual that only two of the five Navajo Area agencies experienced budget problems which required such a drastic action.

Because the RIF action was taken without an actual basis, the action is invalid and the concerned employees must be returned to permanent full-time status.

Conclusion

The RIF action taken against permanent full-time status quo Education employees is invalid because it violates the protection afforded such employees under the Act and regulations, it violates the policy making authority of the local school boards and there is no actual budgetary reason to support the action. For these reasons the action must be set aside and all affected employees returned to permanent full-time status.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D. C. 20245

D 376
532

IN REPLY REFER TO:
Personnel Management

JAN 29 1980

Memorandum

To : All Area Directors
Area Personnel Officers

Acting Deputy
From : Commissioner of Indian Affairs

Subject: Less than full-time permanent appointments

It has been the policy of the Bureau to make career-seasonal appointments to positions that are not needed on a year long basis. The majority of these appointments have been made in the Office of Indian Education Programs.

Our memorandum of September 1, 1976, stated that we did not anticipate immediately converting employees in the Bureau's regular education program from full-time positions to less than full-time positions. Since the Office of Indian Education Programs is now phasing in the formula funding requirements of P.L. 95-561 we have found the Education Program in the position of severe budget cuts at various schools. We are cancelling the September 1, 1976, memorandum to provide the Office of Indian Education Programs the opportunity to convert employees to furlough in order to relieve the budget restraints and prevent the separation of permanent employees. Education may find it necessary to convert employees from full-time to less than full-time because of program changes or budgetary cuts. This type of position change is considered involuntary and these employees would remain status quo and not be converted to the contractual system as provided in P.L. 95-561. In working with the Agency Superintendents for Education you may be able to assist them in solving serious staffing cuts.

You should have received through your regular Manual distribution system a copy of 44 BIAM 315.9 dated May 4, 1979, which manualizes the instructions for making career seasonal appointments. If you have not received this, please call the Division of Personnel Management, 343-9306 for a copy.

RECEIVED
ADMINISTRATION
FEB 4 1980

:100
500/511

ATTACHMENT A

BEST COPY AVAILABLE

FD

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Fort Defiance Agency
P.O. Box 110
Fort Defiance, Navajo Nation, Arizona 86504

IN REPLY REFER TO:

MAR 3 1980
OF ADMINISTRAT
OF PERSONNEL
P. C.
GALLUP, [illegible]

March 3, 1980

MEMORANDUM

TO: Area Personnel Officer, Navajo Area Office

FROM: Agency Superintendent for Education

SUBJECT: Furlough of Education Personnel

After careful review of the Fort Defiance Agency Schools' budgets I have come to the conclusion that furloughing of all permanent positions with the exception of the Principals and secretaries is necessary. My decision is based on the following:

1) The final allocation of funds for eleven of the fourteen educational institutions will not meet their needs.

2) Reduction-in-force is one way of solving the problems, but we will increase the safety hazards of the children due to lack of coverage.

   RIF will also cause a mass migration between schools in competitive areas, and of course bumping the young employees out of their jobs.

3) The need to pay employees in the summer when there are no children for whom the funds are allocated is unjustifiable. Eventually, the schools will operate only 10 months of a year.

4) Ten out of the fourteen schools, plus the Agency School Board has approved the furloughing of permanent employees. Three school boards are not sure what position to take, one school has not replied.

Attached for your information is a list of the exceptions to furloughing by school location.

Attachment

Phillip

ATTACHMENT B

MAR 3 1980
BRANCH OF PERSONNEL
BOX 1060
GALLUP, NEW MEXICO

LIST OF PERSONNEL NOT TO BE FURLOUGHED

Fort Defiance Education

LOCATION	SCHOOL	PRINCIPAL	SECRETARY
-03	Chuska	VACANT, GS-13 All.3056A	Dorothy A. Bitsuie, GS-4 ~~[illegible]~~
-05	Crystal	Clarence Birch, GS-12 All.3142A	Lena Dasetclaw, GS-5 ~~All.3144A~~
-06	Dilcon	Donovan Heath, GS-13 All.3176A	Dorothy Begay, GS-4 ~~All.3286A~~
-08	Greasewood	Leon Ben, GS-13 All.3291A	Betty A. Boyd, GS-4 ~~All.3363A~~
-09	Holbrook	Grace P. Yazzie, GS-11 Supv. Guid. Counselor All.3378A	Barbara Tolino, GS-4 ~~All.3443A~~
-11	Hunters Point	Roy Chase, GS-12 All.3457A	Darlene Begay, GS-4 ~~All.3464A~~
-14	Kinlichee	Mike James, GS-12 All.3873A	Johanna Begay, GS-4 ~~All.~~3492A
-18	Pine Springs	VACANT, GS-11 All.3501A	~~None~~
-19	Seba Dalkai	Delco Wilhoite, GS-12 All.3521A	Dorothy Willie, GS-5 ~~[illegible]~~
-20	Snowflake	Leonard Smith, GS-11 Supv. Guid. Counselor All.3551A	VACANT, GS-4 ~~All.3564A~~
-22	Tohatchi	Benny Hale, GS-12 All.3572A	Linda Atene, GS-4 ~~All.3621A~~
-27	Toyei	VACANT, GS-13 All.3707A	Betty Kayonnie, GS-4 ~~[illegible]~~
-24	Wide Ruins	VACANT, GS-12 All.3636A	Julia Shorty, GS-14 ~~[illegible]~~
-25	Winslow	Opal Langford, GS-11 Supv. Guid. Counselor All.3675A	Patricia Littrell, GS-4 ~~All.3694A~~

3/4/80

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
Shiprock Agency
P.O. Box 3239
Shiprock, New Mexico 87420

IN REPLY REFER TO:
Education

FEB 26 1980
NAVAJO AREA OFFICE
DIVISION OF ADMINISTRATION
BRANCH OF PERSONNEL
P. O. BOX 1060
GALLUP, NEW MEXICO

February [illegible]

MEMORANDUM

To: Area Personnel Office
Attention: Elaine Woods

From: Agency Superintendent for Education

Subject: Conversion of Educational Positions

The following listed positions by location and title will be retained in full time permanent status. All other positions at the schools and Agency Education Office will be converted to furlough status.

Location	Position No.	Title	Grade Level	Incumbent
-02 Aneth	A11.4069A	Principal	GS-12	Eva M. Benally
	~~A11.0147A~~	~~Secretary~~	~~GS-04~~	~~Irene Verito~~
-03 Aztec	A11.0169A	Supv.Guid. Counselor	GS-11	Albert Davis
	~~A11.0182A~~	~~Secretary~~	~~GS-05~~	~~Anna J. Tsosie~~
-04 Beclabito	A11.0190A	Principal	GS-11	Clifford Ward
-05 Cove	A11.0197A	Principal	GS-11	Lucy M. Roanhorse
-06 Nenahnezad	A11.0213A	Principal	GS-12	Kenneth L. Benally
	~~A11.0255A~~	~~Secretary~~	~~GS-04~~	~~Phyllis Begay~~
-07 Red Rock	A11.0263A	Principal	GS-11	John C. Begay
-09 Sanostee	A11.0278A	Principal	GS-13	Larry Tsosie
	~~A11.0347A~~	~~Secretary~~	~~GS-04~~	~~Lucy M. Todacheeni~~
-10 Teecnospos	A11.0361A	Principal	GS-13	Calvin C. Lucas
	~~A11.0442A~~	~~Secretary~~	~~GS-05~~	~~VACANT~~
-11 Toadlena	A11.0457A	Principal	GS-12	VACANT
	~~A11.0491A~~	~~Secretary~~	~~GS-04~~	~~Priscilla Tlutoco~~
-13 Shiprock	A11.0498A	Principal	GS-12	Randal Griffin
	~~A11.0565A~~	~~Secretary~~	~~GS-04~~	~~Bertha Deal~~
Agency Office -01	A11.0104A	Agency Superintendent for Education	GS-13	James Tonchee
	A11.0107A	Assistant Agency Superintendent for Education	GS-12	VACANT
	A11.0113A	Secretary	GS-05	Callie Gray
	A11.0105A	Education Specialist (Spec. Educ.)	GS-12	Bobby Dean
	A11.0106A	Education Specialist (Special Projects)	GS-12	Andrew F. Fabian Jr.

ATTACHMENT C

BEST COPY AVAILABLE

MAY 19 1980

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Navajo Area Office
P. O. Box 1060
Gallup, New Mexico 87301

IN REPLY REFER TO:

APR 15 1980

Mr. Clayton Erratt
Executive Director
P. O. Box 1840
Gallup, New Mexico 87301

Dear Mr. Erratt:

Because of a change in the funding allocations for the Education Program, it has become necessary in Shiprock and Fort Defiance Agency to change permanent full-time employees to permanent seasonal (subject to furlough) in line with the actual needs for their service. This is to give specific notice at least five days prior to notification of employees in Shiprock and Fort Defiance Agencies.

Professional educators (series 1710) being affected are as follows:

Shiprock	Fort Defiance
1 - Education Specialist, GS-11	1 - Education Specialist, GS-9
44 - Teachers, GS-9	86 - Teachers, GS-9
3 - Teachers, GS-7	4 - Teachers, GS-7
2 - Teachers, GS-5	4 - Teachers, GS-5
1 - Guidance Counselor, GS-9	2 - Guidance Counselors, GS-9

Date of the action to be taken is May 30, 1980. You may contact Mr. James A. Smith, Section Chief, Recruitment and Placement, 505/863-9501, extension 215, for consultation concerning efforts to minimize the adverse effects on employees or to review the reduction-in-force regulations in the Federal Personnel Manual, under which this action will be taken.

Sincerely yours,

Area Director

ATTACHMENT D

April 29, 1980

Mr. Earl J. Barlow, Director
Office of Indian Education Programs
1951 Constitution Avenue, NW
Washington, D. C. 20245

Dear Mr. Barlow:

The Navajo Area School Board Association strongly questions the recent Fort Defiance Education Office management decision to call for a Reduction in Force (RIF) of all education positions within the agency. Discussions on this matter have been ongoing since February when the idea was originally presented to the Fort Defiance Agency School Board. Apparently the RIF changes all permanent full-time employees to permanent seasonal employees with the exception of principals and their secretaries. Our concerns are the following:

1. No proof has ever been presented to this office or to any of the school boards involved concerning the necessity of this action.

2. We find it hard to believe that such a RIF is necessary for all the schools in Fort Defiance Agency but is not necessary in at least 3 of the remaining 4 agencies in Navajo Area.

3. Since the reason given for the RIF is said to be budgetary deficiency, we believe that it must come under the authority of each local school board in accordance with 25 CFR 31h.63.

We do not know whether or not your office has reviewed and approved this decision. However, we believe an important principle is at stake. Various local school boards have opposed this action. Other boards have requested additional proof which has not been forthcoming. The Agency School Board which initially approved the idea of furloughing pending proof from the Agency Education Office has since opposed such

ATTACHMENT E

an action since no proof was presented. If such actions are not subject to school board authority then we cannot see how the school board can be listed as the policy-making body of the school as indicated in 25 CFR 31a.4(4) or what is meant by the statute and the regulations where it is stated that the school board possesses the authority to ratify the local financial plan.

Sincerely,

Verner V. Duus, Director
Navajo Area School Board Association

VVD:eje:04-29-80p

cc: Phillip Belone
Wilfred Bowman
Lee Shearin
School Board President - Ft. Defiance Agency
File/Chrono

For your information

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO
Indian Education

Mr. Verner Duus, Director
Navajo Area School Board
  Association
P. O. Box 578
Window Rock, Arizona 86515

MAY 23 1980

Dear Mr. Duus:

We share your concern over reduction-in-force actions at several agencies on Navajo.

If there is insufficient money in a school's budget to carry out the program at the existing level, then the furloughing of employees may be the only way to reduce the budget adequately.

However, if sufficient funds are available, it is within the board's authority to determine if they choose to expend them for salaries - 25 CFR 31h.63. If a school supervisor wishes to overturn such a decision, he/she may appeal to the Agency Superintendent for Education, and the board may appeal to the Director if it feels its decision has been overturned without good cause - 25 CFR 31h.64. In these present cases, one of the real issues appears to be the validity of the budget deficiency.

I wish to correct the impression that this office directed that a RIF be carried out, though I do support such action when it is required. The enclosed copy of a letter to Chairman McDonald describes the process when a RIF is necessary. However, the determination is made at the local and Area levels depending upon the circumstances.

Some schools have opted to have employees go on Leave Without Pay for the necessary number of pay periods to balance the budget and yet to protect the employees' status.

We trust this discussion will be helpful to your situation.

Sincerely,

S. Gabe Paxton

DEPUTY Director, Office of Indian
Education Programs

Enclosure

Indian Education

Mr. Peter MacDonald, Chairman
Navajo Tribal Council
Window Rock, Arizona 86515

MAY 2 1980

Dear Chairman MacDonald:

This is in response to your letter to Mr. Dodge regarding requests that the status of the Civil Service employees in the Navajo Area remain unchanged. As with any major legislation such as Public Law 95-561, certain revisions in the area of education management must be initiated. Unfortunately, these changes will affect the Navajo Area and its education staff.

Management has made the decision to change the condition of employment of full time permanent employees to positions subject to furlough. The reason for this decision was due to a budget reduction. The new formula funding system allocates monies to the schools based on student enrollment, and in many cases, this is causing a decrease in the total budget. In order to keep from separating employees, the decision was made to change the condition of employment to furlough status. Public Law 95-561 does state that present employees will retain their status, however, this simply means that if they are career or career-conditional they will retain that status and will not be placed under contract unless they voluntarily accept a contract position. Management still reserves the right to change the condition of employment using appropriate procedures when conditions warrant such a change. The decision as to the length of the furlough period is also reserved for management. The normal period of furlough is usually between two and eight weeks.

The service computation date of employees in non-pay status is not affected until they have remained in this status more than six months. Under the retirement system, credit is also given for furlough which does not exceed six months in any calendar year. Both life and health benefits continue at no cost to furlough employees up to 12 months. Annual and sick leave are accrued only when an employee is in pay status. Annual leave may only be taken when an individual is not in furlough status. Rental of quarters continues to be the responsibility of the employee during periods of non-pay status.

Sincerely,

S. Gabe Paxton, Jr.
Acting Director, Office of Indian
Education Programs

BEST COPY AVAILABLE

May 30, 1980

Mr. Lee Shearin
Area Personnel Officer
Navajo Area Office
P. O. Box 1060
Gallup, New Mexico 87301

Dear Lee:

A couple of weeks ago I spoke with you concerning the option of management to put permanent full-time employees on furlough status for up to 30 days with no change in their status. You agreed that this was a valid option and in the attached letter from Gabe Paxton he indicates that LWOP is an option. However, at a recent Fort Defiance Agency board meeting, Mr. Bennie Tazzie of the Area Personnel Office as well as Mr. Phillip Belone indicated that any such process would have to be done through adverse action proceedings and, therefore, would result in costly grievances being filed. I am confused over the use of this option to overcome budget deficiencies at local school levels. School boards in the Fort Defiance Agency, based upon the information received from Mr. Belone and Mr. Tazzie, now believe this is not a valid option and this in part has resulted in some of these boards accepting the furlough through RIF procedures. I am asking for a statement from you to clear up the confusion over the use of this option.

Second, the attached letter clearly states board authority in such matters. We have received numerous complaints from board members and other individuals regarding the fact that school board powers have been ignored in making the decision to furlough. Within the Fort Defiance Agency there has to date been a great deal of consultation with school boards. In most cases, the action was presented to the boards for support and approval. It is unclear what would happen in a case of board disapproval. Power to approve without the power to disapprove, of course, is a rubber stamp. In the Shiprock Agency the furloughing RIF action actually appears to have been handled in a secretive manner. No school board to our knowledge was consulted on the decision nor were school principals apparently involved in making the decision. Such actions are a flagrant

ATTACHMENT F

violation of numerous sections of the regulations developed pursuant to P. L. 93-561 and need to be dealt with accordingly.

Thirdly, it was earlier reported to me by Mr. Jarrett that Mr. Barlow, Director of the Office of Indian Education Programs, had approved the RIF action. I am sure that Mr. Jarrett believed this to be the case but I later obtained a copy of a telegram from Mr. Krentzke, Deputy Commissioner, authorizing the RIF to proceed. This letter from Mr. Paxton makes it clear that the Office of Indian Education Programs did not direct or approve such an action.

The confusion, lack of timely documentation, lack of school board consultation, and the overall manner in which this Reduction-in-Force action has been carried out has been detrimental to the educational program here on Navajo. It is our desire that the confusion surrounding the action be cleared up and that subsequent personnel actions not follow this pattern.

Sincerely,

Verner V. Duus, Director
Navajo Area School Board Association

VVD:aja:03-30p

Attachment

cc: File/Chrono

ATTACHMENT II

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Navajo Area Office
P. O. Box 1060
Gallup, New Mexico 87301

IN REPLY REFER TO:

APR 24 1980

SUBJECT: Specific Notice of Reduction in Force and Offer of Position Change

TO:

THE FOLLOWING INFORMATION PERTAINS
TO YOU AND YOUR POSITION:
a. Type of Appointment:
b. Retention Subgroup:
c. Competitive Area:
d. Competitive Level:
e. Service Computation Date:
f. Position Title, Series, Grade, and Salary:
( )

1. Because of a change in the funding allocations for the Education Program, it has become necessary to change permanent full-time employees to permanent seasonal (subject-to-furlough) in line with the actual needs for their service. To protect the rights of the incumbents and other employees who may be affected, this change will be accomplished under Reduction-in-Force (RIF) procedures.

2. On the basis of your retention status and the application of reduction in force procedures, you have been reached for separation from your competitive level. All applicable existing regulations and procedures have been considered in determining your placement rights. There is no full-time permanent vacancy at this time for which you qualify, nor is there any full-time employee within the competitive area with less retention that you can displace.

3. This letter constitutes notice that you will be converted to career-seasonal (subject-to-furlough) effective May 30, 1980. It is necessary that within five work days after receipt of this letter you complete and sign the indorsement and return a copy to your supervisor. Failure to make the indorsement will constitute a declination and will result in your separation. You will remain in duty status during this notice period unless you request and obtain approval for leave as appropriate. During this notice period, every effort will be made to locate a full-time position within your competitive area for which you qualify.

4. This action is being taken in accordance with regulations and policies of the Office of Personnel Management, the Merit Systems Protection Board, and the Department of Interior. If you believe there has been a violation of your rights under the Office of Personnel Management or Merit System

Protection Board Regulations, you may appeal this action directly to: Merit Systems Protection Board, Dallas Field Office, 1100 Commerce Street, Dallas, Texas 75242. You may submit an appeal beginning with the day after the effective date of this action, but no later than twenty (20) days after the effective date. Attached are the (MSPB) Regulations and an Appeal form for your use.

5. Copies of pertinent regulations, appeal procedures, and the retention registers are available for your inspection in the Recruitment and Placement Section, Personnel Office, room 224. You may inspect the records at anytime by contacting Mrs. Joan Davis, Staffing Specialist, who will assist you. Before submitting an appeal, you are encouraged to contact Mrs. Davis who is assigned to your organization. If you desire, she will assist you in preparing an appeal and will further explain your rights and the procedures and conditions of this action. Mrs. Davis may be contacted on extension 215.

6. As a result of being reached for separation from your competitive level, you may be eligible for discontinued service retirement. Attachment two explains that type of retirement. If you meet the requirements and desire to retire, you are urged to contact Mrs. Davis immediately so that appropriate counselling can be arranged.

7. We regret the necessity for this action. During your notice period every effort will be made to improve our position offer to you. Be assured that the action in no way reflects on your efficiency. It is hoped the action will not decrease your dedication to duty nor your confidence in the Bureau of Indian Affairs as an employer.

Receipt of this letter is acknowledged:

____________________________ ________________
(Signature) (Date)

TO: Personnel

I will ___ will not ___ accept the position offered as a reasonable offer to continue employment.

____________________________ ________________
(Signature) (Date)

NATIONAL COUNCIL OF BUREAU OF INDIAN AFFAIRS EDUCATORS
Box 1840 • Gallup, New Mexico 87301
AEA NEA-NM
NEA
Office of the Executive Director
Office Phone: (505) [illegible]

May 1, 1980

Letter to Members of Congress

We are very concerned about the future of BIA Schools. Somewhere, there needs to be a check on what the BIA can and cannot do. For some reason there seems to be unlimited power in their hands. We know that this cannot be so.

We are requesting your help to get straight answers about our concerns. The major concern now is a Reduction in Force to change permanent full-time employees to permanent career seasonal employees. This seems to be in violation of the BIA rules in the Federal Register and PL 95-561. There should be no effect felt by the status quo employee.

Enclosed please find a copy of a resolution passed by our Delegate Assembly on April 26, 1980. It states our concern very well with the information we have on hand.

This change in status is to be effective on May 30, 1980 so time is of the essence.

Would it be possible to get the names of the people in your office who will handle this and further communications? This is for the best possible coordination. Also, a list of who is watching the implementation of PL 95-561, the BIA, and the Department of Interior, along with their addresses.

Thank you for your time and trouble.

HAVE A NICE DAY!!

Respectfully Submitted,

Clayton E. Erratt,
Executive Director, UniServ

CE/js

Enc.

NATIONAL COUNCIL OF BUREAU OF INDIAN AFFAIRS EDUCATORS
Box 1840 • Gallup, New Mexico 87301
AEA NEA-NM
NEA
Office of the Executive Director:
Office Phone: (505) 863-6251

4-25-80

Resolution of the N.C.B.I.A.E. Delegate Assembly on April 26, 1980:

Let it hereby be known that the N.C.B.I.A.E. is against the proposed furlough action of federal civil service employees. We are very concerned that the proposed furlough is in actuality a reduction in force. This is contrary to original information presented to principals and school boards. The choice as explained originally was "furlough or RIF" The notices received by employees stated that they were"notices of reduction in force and offer of position change." All Ft. Defiance education employees are being RIFed and rehired as permanent seasonal employees. If they do not agree to this status change, they are automatically fired.

We also protest the 5 day time limit set on signing the proposed action. We believe that this is an unfair labor practice and should be stopped.

Therefore, be it resolved, that N.C.B.I.A.E. will protest and fight to protect the rights of permanent status civil service employees of Ft. Defiance Agency and all other Bureau of Indian Affairs Agencies as necessitated, and that tis action is inviolation of the Federal Register/Vol.44,No.218/Thursday, November 8,1979/Rules and Regulations section 31g.13 Status quo employees in education positions. (a) Status quo employees. Individuals who were Bureau employees on October 31,1979, with an appointment in either the competitive or excepted service without time limitation, and who are serving in an Education position, shall be continued in their positions under the terms and conditions of that appointment with no change in their status or position;except, they may be promoted to the full performance level of the position as that level was defined before Novemberl,1979,with no other change in position.

BEST COPY AVAILABLE

NATIONAL COUNCIL OF BUREAU OF INDIAN AFFAIRS EDUCATORS
Box 1840 • Gallup, New Mexico 87301
AEA NEA-NM
NEA
Office of the Executive Director
Office Phone: (505) [illegible]

The following information is on the Shiprock Agency. It is taken from the budget information which I recieved in answer to my Freedom of Information Act inquiry.

School	Total Program				Increase	
	Date	1978	Date	1980	$	%
Aneth	5/24/78	764,235	2/28/80	1,069,824	305,589	40%
Aztec	5/24/78	266,290	2/28/80	338,044	71,754	27%
Beclabito	5/24/78	126,433	2/11/80	183,512	57,079	45%
Cove	5/24/78	237,869	2/26/80	283,561	45,692	19%
Nenahnezad	5/24/78	815,023	2/29/80	1,027,974	212,951	26%
Red Rock	5/24/78	208,107	3/09/80	377,812	169,705	82%
Sanostee	5/24/78	1,203,388	3/04/80	1,393,214	189,826	16%
Teec Nos Pos	9/11/78	1,527,796	2/27/80	2,034,274	506,478	33%
Toadlena	9/11/78	592,310	2/28/80	724,408	132,098	22%
					Decrease	
Shiprock Brd. Sch						
	9/11/78	1,267,651	3/10/80	409,566	-990,183	-78%

There was only one board action sent to me dealing with the RIF. This was from the Teec Nos Pos school dated 2/27/80. The question is on what information was it based?

This board action was repealed on May 7,1980.

The RIF (Furlough) action was voted against by the chapter on May 23,1980.

NATIONAL COUNCIL OF BUREAU OF INDIAN AFFAIRS EDUCATORS
Box 1840 • Gallup, New Mexico 87301
AEA NEA-NM
NEA
Office of the Executive Director
Office Phone: (505) 863-[illegible]

Ft. Defiance Agency Schools:	Percentage Increase or Decrease in Absentions of 1980 over 1979
Toyei	+21%
Chuska	+ 2%
Crystal	- 1%
Dilcon	+25%
Greasewood	- 7%
Holbrook	- 4%
Hunters Pt.	+15%
Kinlichee	+14%
Pine Springs	- 2%
Seba Dalkai	+17%
Snowflake	- 5%
Tohatchi	+29%
Wide Ruins	+14%
Winslow	- 9%

PETE V. DOMENICI
NEW MEXICO

United States Senate
WASHINGTON, D.C. 20510

May 29, 1980

Clayton E. Erratt
Executive Director, UniServ
National Council of Bureau of
Indian Affairs Educators
Post Office Box 1840
Gallup, New Mexico 87301

Dear Clayton:

Enclosed please find a copy of a letter I received from the Bureau of Indian Affairs in reference to employee furloughs.

As you will note, the underlying cause of the decision to furlough workers is the reduction in the BIA budget. However, this budget reduction does not specify that permanent employees should bear the burden of the cuts. The issue bcomes one of administrative equity--that is, those schools that are able to attract students should not be penalized to the same degree as those schools which are losing students. In other words, I feel that quality and performance should be major factors in the decisions to live within the new budget realities.

If you feel that employees are being penalized unjustly by the standards I have mentioned, please let me know how I can be of further service.

With best wishes, I am

Sincerely yours,

Pete V. Domenici
United States Senator

PVD:jwt

Enclosure

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

BCCO 7331 APR 0 4 1980

Honorable Pete V. Domenici
United States Senate
Washington, D. C. 20510

Dear Senator Domenici:

This is in response to your letter of concerning an inquiry made to your office by employees of Bureau of Indian Affairs' Area Office.

The issue at hand is the decision to change the condition of employment of full time permanent employees to positions subject to furlough. The reason for this decision was due to a budget reduction. The new formula funding system allocates monies to the schools based on student enrollment, and in many cases, this is causing a decrease in the total budget. In order to keep from separating employees, the decision was made to change the condition of employment to furlough status. Public Law 95-561 does state that present employees will retain their status, however, this merely means that if they are career or career-conditional they will retain that status and will not be placed under contract unless they voluntarily accept a contract position. Management still reserves the right to change the condition of employment using appropriate procedures when conditions warrant such a change. The decision as to the length of the furlough period is also reserved for management. The normal period of furlough is usually between two and eight weeks.

The service computation date of employees in non-pay status is not affected until they have remained in this status more than six months. Under the retirement system, credit is also given for furlough which does not exceed six months in any calendar year. Both life and health benefits continue at no cost to furlough employees up to 12 months. Annual and sick leave are accrued only when an employee is in pay status. Educational leave may only be taken when an individual is not in furlough status. Rental of quarters continues to be the responsibility of the employee throughout periods of non-pay status.

We regret that the conditions of employment must be changed, however in order to function within budgetary restraints we do find it necessary to take such measures in many of our schools.

Sincerely,

S Gobe Payton Jr

ACTING DEPUTY Director, Office of Indian
Education Programs

HAROLD RUNNELS
[illegible]

COMMITTEE ON ARMED SERVICES
[illegible]

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
[illegible]
Public Lands
[illegible]

Congress of the United States
House of Representatives
Washington, D.C. 20515

[illegible]

May 30, 1980

Mr. Clayton E. Erratt
Executive Director
National Council of Bureau of
  Indian Affairs Educators
Box 1840
Gallup, New Mexico 87301

Dear Clayton:

Thank you for your recent letter expressing the concern of your organization over the actions taken by the Bureau of Indian Affairs in furloughing this summer a number of permanent employees.

Based on my own concern over the impact of this action I had discussions with Earl Barlow, Director of Education for BIA. The Department takes the position that they have little choice in the matter. The budget restrictions imposed upon the agency this year required them to place a number of employees on furlough because of changes in the funding allocation for educational programs.

The House Education and Labor Committee has been made aware of this fact. Both my office and the office of Congressman Eldon Rudd have raised concerned about the impact of this action. We have been advised that the furlough action will involve employees throughout the Navajo Area Office and will not be restricted to any single agency. The BIA has taken the position that they had followed all the rules and regulations of the Office of Personnel and anyone who feels that they have been treated unfairly has the right to appeal the change in their status to the Merit System's Protection Board. It is my understanding that a number of employees have done so. I know of no other option available to the employees at this time as the action is an administrative one taken by the Department of Interior.

I am enclosing for your information a copy of the letter that was sent to Congressman Rudd in response to the inquiry which he made and which was subsequently provided to me after I made my own inquiry.

With best wishes.

Sincerely,

Harold Runnels

HAROLD RUNNELS, M.C.

lkm

Enclosure

66

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:
BCCO 7332

APR 0 4 1980

Honorable Eldon Rudd
House of Representatives
Washington, D. C. 20515

Dear Mr. Rudd:

This is in response to your transmittal of March 20, 1980 concerning an inquiry made to your office by employees of the Fort Defiance Agency, Bureau of Indian Affairs' Navajo Area Office.

The issue at hand is the decision to change the condition of employment of full time permanent employees to positions subject to furlough. The reason for this decision was due to a budget reduction. The new formula funding system allocates monies to the schools based on student enrollment, and in many cases, this is causing a decrease in the total budget. In order to keep from separating employees, the decision was made to change the condition of employment to furlough status. Public Law 95-561 does state that present employees will retain their status, however, this merely means that if they are career or career-conditional they will retain that status and will not be placed under contract unless they voluntarily accept a contract position. Management still reserves the right to change the condition of employment using appropriate procedures when conditions warrant such a change. The decision as to the length of the furlough period is also reserved for management. The normal period of furlough is usually between two and eight weeks.

The services computation date of employees in non-pay status is not affected until they have remained in this status more than six months. Under the retirement system, credit is also given for furlough which does not exceed six months in any calendar year. Both life and health benefits continue at no cost to furlough employees up to 12 months. Annual and sick leave are accrued only when an employee is in pay status. Educational leave may only be taken when an individual is not in furlough status. Rental of quarters continues to be the responsibility of the employee throughout periods of non-pay status.

We regret that the conditions of employment must be changed, however in order to function within budgetary restraints we do find it necessary to take such measures in many of our schools.

Sincerely,

S Gabe Paxton

ACTING DEPUTY Director, Office of Indian
Education Programs

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

May 31, 1980

Mr. Clayton E. Erratt
Executive Director, UniServ
NATIONAL COUNCIL OF BUREAU OF
INDIAN AFFAIRS EDUCATORS
Box 1840
Gallup, New Mexico 87301

Dear Clayton:

Thank you for the materials regarding the BIA's implementation of PL 95-561. Enclosed is a copy of the letter sent to the BIA requesting a response to its possible violation of the law. When the reply is received, I will contact you.

Also, you might be interested in knowing that the Senate Select Committee on Indian Affairs will be conducting oversight hearings on this issue during the last part of July or the first part of August. If you, and/or members of the National Council of Bureau of Indian Affairs Educators, are interested in participating, please let me know.

If I can be of further assistance, please let me know.

Sincerely,

Dennis

DENNIS DeCONCINI
United States Senator

DDC/JMT
Enclosure

tu

United States Senate
COMMITTEE ON APPROPRIATIONS
WASHINGTON, D.C. 20510

May 31, 1980

Mr. Sid Mills
Acting Assistant Secretary
Bureau of Indian Affairs
Department of the Interior
Washington, D.C. 20240

Dear Mr. Secretary:

Enclosed are materials regarding the Bureau of Indian Affairs' implementation of Title XI of Public Law 95-561. I would appreciate your general comments on the enclosures. Also, if you would specifically respond to the charge that the BIA is in violation of its regulations and the law, it would be most helpful. I look forward to hearing from you.

Best wishes.

Sincerely,

Dennis DeConcini
DENNIS DeCONCINI
United States Senator

DDC/JMT
Enclosures

tu

HAROLD RUNNELS
[illegible]

COMMITTEE ON ARMED SERVICES
[illegible]

COMMITTEE ON
INTERIOR AND INSULAR AFFAIRS
[illegible]

Congress of the United States
House of Representatives
Washington, D.C. 20515

[illegible]

July 7, 1980

Mr. S. Gabe Paxton, Jr.
Deputy Director
Office of Indian Education Programs
Department of Interior
Bureau of Indian Affairs
Washington, D.C. 20245

re: BCCO 8023

Dear Mr. Paxton:

I am in receipt of your letter of June 30th in response to my correspondence of June 12th concerning the furloughs being imposed upon educators within the Navajo Area Office.

In that correspondence I enclosed a letter from the representative of the National Council of Bureau of Indian Affairs Educators. Truthfully, your letter of June 30th does not respond to any of the questions being raised by the local teachers union. I would appreciate your being more responsive to the issues being raised by the union in order that I might in turn be responsive to my constituency.

With best wishes.

Sincerely,

Harold Runnels

HAROLD RUNNELS, M.C.

lkm

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:
HCCD 8023

JUN 30 1980

Honorable Harold Runnels
House of Representatives
Washington, D. C. 20515

Dear Mr. Runnels:

This is in response to your letter of June 12, 1980 concerning position changes to furlough which are occurring in the Navajo Area.

Due to a new formula funding system adopted as a result of Public Law 95-561, the distribution of funds is now made on the basis of pupil enrollment. Many Bureau schools have suffered a decrease in funding as a result of the new system. Therefore, it was necessary to either cut personnel or change the education employees to furlough during the summer months when school is not in session. Rather than separate some employees, management made the decision to place them in furlough so that sufficient funds would be available for the fiscal year..

Reimbursements (housing and meals of employees) are figured into the budget at the local level, however, since they represent a variable factor, they cannot be used as a long range fixed source of funds.

If we can be of further assistance, do not hesitate to contact us.

Sincerely,

S. Gabe Paxton, Jr.

DEPUTY Director, Office of Indian
Education Programs

United States Senate
WASHINGTON, D.C. 20510

July 9, 1980

Mr. Clayton E. Erratt
Post Office Box 1840
Gallup, New Mexico 87301

Dear Clayton:

Thank you for letting me know about your serious concerns about your change in employment status.

This matter, as you have indicated, has many aspects, including charges of mismanagement. As it is almost impossible for me to have a good understanding of the problem from the brief letters I have received, I am relying on the Senate Select Committee on Indian Affairs to help resolve the many charges. To this end, the Select Committee is having oversight hearings on Indian education programs. These hearings will be held in Washington, D. C. on July 24, 1980.

I have been informed by the committee that the National Council of BIA Educators plans to testify on this matter. Please be assured that I will lend the Committee my full support in resolving the question of full time permanent employees being placed in furlough status.

Sincerely yours,

Pete V. Domenici
United States Senator

PVD/sah

Senator **Melcher.** Thank you very much.

Our next witnesses are James M. Peirce, president of the National Federation of Federal Employees; accompanied by Dr. Ted Beavers, Richard Martin, Billy Gibson, Charles Bernhardt, and Linda Joseph.

STATEMENT OF JAMES M. PEIRCE, PRESIDENT, NATIONAL FEDERATION OF FEDERAL EMPLOYEES; ACCOMPANIED BY CHARLES BERNHARDT AND LINDA JOSEPH, LABOR RELATIONS SPECIALISTS

Mr. **Peirce.** I was going to say good morning, Mr. Chairman, but it is now good afternoon.

I would like to introduce the people at the table. On my far right is Mr. Richard Martin from the Stewart Indian School. Next to him is Mr. Billy Gibson from the Philadelphia Choctaw School, and immediately on my right is James McGilbra, also of the Philadelphia School. On my left is Dr. Ted Beavers from Fort Sill Indian School. Next is Mr. Charles Bernhardt of my staff, and on my far left is Linda Joseph of my staff.

I would like to submit for the record our written statement, and then I will summarize. However, I would also like to submit for the record statements of our four people from the various areas and they, in turn, after I finish, will make very brief statements summarizing their statements, if that is permissible, Mr. Chairman.

Senator **Melcher.** Yes; you are free to proceed as you wish.

Mr. **Peirce.** When I read our written statement, I found a typographical error, which I would like to correct at this time. It is on page 14, the 11th line. It states "11 percent" and it should be "110 percent." It is a rather important typographical error.

Mr. Chairman, before I begin I would like to point out that the National Federation of Federal Employees represents over 80 percent of the entire BIA workforce—more than 14,000 civil servants. We are by far the largest union within the BIA and the leading spokesmen for the employees and, I believe, play an important role in the development of BIA policies.

I would also like to add that the larger percentage of those that we represent are, in fact, Indian employees. Hence we appreciate the opportunity today to represent the views of the employees on the status of Indian education and hope the committee calls upon us again when it considers issues affecting the BIA.

With the implementation of Public Law 95-561 and the fundamental changes being made to the Indian education system, NFFE is becoming increasingly concerned with the treatment of BIA personnel as well as with quality education for Indians. Granted the most important consideration is the students, to prepare them for a world that is often alien and hostile.

The interests of students go hand in hand with that of the employees who, as I have stated, are most often Indians. Indeed, their interests are common, not competing, and it is difficult to inflict injury on one party without doing damage to the other.

Unfortunately, the administration and Congress seem to view things differently. During implementation of Public Law 95-561 employees are being treated virtually as tools of the system, with no more rights to a secure and decent standard of living than the furniture in the classrooms.

Interior seems to have forgotten that BIA employees are, for the most part, people who have dedicated their careers to improving the lives of Native Americans. It is a difficult and demanding job.

They deserve respect as human beings and they demand their rights as American workers. If this fact continues to be ignored, it is inviting catastrophe within the entire system of Indian education.

With this in mind I will discuss the proposed closing of Fort Sill and off-reservation boarding schools. The recommendation regarding the consolidations of these schools with others of the off-reservation boarding schools are based on incomplete and what we consider erroneous information and should not be taken seriously.

Despite instructions from Congress, Interior never fully studied recommendations on the off-reservation boarding schools' curricula and staffing needs. It only suggested that further reviews be undertaken.

Obviously, Interior itself undertook little investigation in these crucial areas. For instance, studies of graduates and dropouts, of academic teaching schedules, and of academic and home living staff needs are merely recommended.

In addition, Interior's comprehensive review of each boarding school often consisted of cursory visits lasting no more than one-half day to a day. It is impossible for programs ranging from academic to operation and maintenance to be carefully assessed based on the sketchy information provided by these brief, onsite visits.

Moreover, despite Interior's assertions, each school in the off-reservation boarding school system meets the needs of a particular type of Indian student. Pupils at Fort Sill, for example, have a history of learning difficulties. It is doubtful that the specific needs of all of these students could be fully met if they are transferred to other schools within the system.

In fact, the student could leave the school and end up in serious trouble with the law. Let me note that the cost of maintaining one prisoner in the McAllister Penal Institution in Oklahoma for 50 years is approximately $750,000 or nearly the entire cost of keeping Fort Sill open for another year. Two prisoners would cost more than Fort Sill's annual budget.

The employees and students at Fort Sill and Stewart are totally opposed to their closing—this year, next year, or any year. We all realize that the cost effectiveness of the off-reservation boarding school system can and should be improved, but consolidation is not the answer.

The furloughing of BIA employees is another example of penny wise and pound foolish. In an effort to trim costs, Interior is converting many BIA employees to subject-to-furlough status and putting them on leave without pay during the summer months.

It may appear to save money, Mr. Chairman, but in the end it destroys the morale of the employees and undermines the entire educational system.

Again, we too would like to make the BIA as efficient as possible. Furloughing employees, however, runs counter to this goal and serves to waste far more tax dollars than the accounting books show are being saved. We hope the committee can put an end to this foolish policy.

Hopefully, the new formula funding system program mandated by Public Law 95–561 will help place Indian education on a firm financial footing; however, we have serious problems with the way that the Bureau is implementing it.

Since dormitory and education standards have not yet been determined, students' needs are not being funded adequately. In short, Mr. Chairman, until student needs are determined accurately and incorporated into the formula, the new distribution system will be virtually useless.

The Department of the Interior is proposing a reorganization of the Bureau of Indian Affairs which will have a serious impact on Indian education. The proposal is to separate the Office of Indian Education Programs as a distinct organization within the Department of the Interior on an equal basis with the BIA, with both the Director of the Office of Indian Education Programs and the Commissioner of Indian Affairs reporting to the Assistant Secretary of the Interior for Indian Affairs.

Administrative support for this Office will, however, remain the responsibility of the Commissioner. There will be, therefore, two employers at each Indian school. Teachers will work for Office of Indian Education Programs, and clerical, maintenance, and so forth employees will report to the Commission.

In order to have any coordination between these two groups, one must reach all the way to the Assistant Secretary. We believe that this will provide for extreme inefficiency in Indian schools.

Further, I know of no school system in the world which is or could function effectively in this manner.

The task force report recommending this reorganization is as slipshod as anything I have every seen in my many years in Federal service. It contains no data whatsoever on financial costs or personnel impacts.

We received this report on July 21. We have asked the Department to provide us with the necessary data so that we might make a complete analysis. We will be happy to share our analysis with the committee and we believe the committee should take a hard look at this proposal on its own in order to see that the interests of Indian education are protected.

We have, Mr. Chairman, an extra copy of the proposal and if the committee desires, we would be most happy to afford you the opportunity to look at it.

Senator MELCHER. Thank you.

Without objection, your full statement and the copy of the proposal will be included in the hearing record at this point.

[The prepared statement of the National Federation of Federal Employees and letter to James Peirce dated July 21, 1980 with attachments follow. Testimony resumes on p. 142.]

STATEMENT OF THE NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. Chairman, My name is James Peirce. I am President of the National Federation of Federal Employees, which is the leading representatives of employees of the Bureau of Indian Affairs and Indian Health Service. I appreciate this opportunity to testify on Indian education, a subject of great importance to our membership. I will discuss four topics: the proposed closing of the Fort Sill and Stewart off-reservation boarding schools; the furloughing of BIA teachers; the boarding school studies mandated by Public Law 95-561; and the task force report on BIA reorganization.

THE PROPOSED CLOSING OF THE FORT SILL AND STEWART SCHOOLS

Before I explain NFFE's position, I would like to comment on the validity of Interior's off-reservation boarding school (ORBS) report. The ORBS study grew out of concern about high operating expenses and declining school enrollment. Congress, NFFE, and many others have waited patiently for the results. However, instead of carefully analyzing the boarding school system and determining various options for combating the high costs and skyrocketing student turnover, Interior manipulated the study as a means to justify its proposal for school closings.

First, despite instructions from Congress, Interior never fully studied recommendations on ORBS curricula and staffing needs, it only suggested that further reviews be undertaken. Obviously, Interior itself undertook little investigation in these crucial areas. For instance, studies of graduates and dropouts, of academic and home living staff needs are merely recommended.

Second, Interior's comprehensive review of each boarding school often consisted of cursory visits lasting no more than a day or two. It is impossible for programs ranging from academic to operation and maintenance to be carefully assessed based on the sketchy information provided by these brief on-site visits.

Third, according to Interior, facility condition, potential capacity, and necessary renovations—so crucial in recommending consolidation—were provided by the Division of Facilities Management. Yet, that Division actually provided only the facility inventory reports. Potential school enrollment was never mentioned in the reports. Neither was the time necessary for building renovation. Moreover, Interior did not consult with the Division about the possibility of the school closings this fall.

Finally, the report never mentions any options for better facility utilization; only one option apparently was ever considered—school consolidations. It seems clear that Interior never intended to provide a comprehensive review of the ORBS system nor to study different ways to solve the cost and turnover problems. Instead, Interior succeeded in its misison—it provided a justification for the closing of four BIA schools.

* * * * * * *

In its Fiscal Year 1981 budget request, the Department of Interior recommended that the Fort Sill and Stewart off-reservation boarding schools (ORBS) be closed at the end of the 1979–80 school year. The proposal stems from a report released on May 6, 1980 by the Program Review Division, Office of the Budget, U.S. Department of Interior. The Interior study was prompted by the concern of the Administration and Congress about operating costs and declining school enrollment. While NFFE shares this concern, we disagree with Interior's recommendation that Fort Sill and Stewart be closed prior to the beginning of the 1980–81 school year.

Stewart, the only ORBS in Nevada, has a fine curriculum including programs not available at other schools. The school offers a Human Relations course, Experienced Based Career Education, athletic programs, and instrumental music programs (not available at the Sherman and Intermountain schools). Stewart is unique among the Indian schools for owning and operating a 2700 acre ranch. The large ranch affords Stewart the opportunity to offer Ranch Management, Heavy Equipment Operations, and a Forestry Management program. In addition, in cooperation with the County Sheriff's Office and the Carson City Police Department, the school offers a Police Cadet program. Other ORBS's do not provide such opportunities in law enforcement.

Fort Sill is a unique school in the Anadarko-Muskogee BIA area. Unlike the other boarding schools in Oklahoma, it has the greatest majority of its students enrolled under BIA's academic admission criteria. Fort Sill offers a strong career education program, a vocational program, a special drug and alcohol dorm, and an honor dorm. A great deal of effort has been devoted to the development of the resources needed to improve the performance of scholastically retarded youngsters. Most students are housed in modern dormitory facilities. Other facilities are in sound condition.

Interior has proposed closing the school because it is too small to accommodate significant numbers of students from other ORBSs. As of November 1979, the school was 95 percent utilized. NFFE does not believe it justified to close a school simply because it is small. A small school could provide a more conducive atmosphere for Indian students requiring an alternative to home and local public schools. This is substantiated by the improved scholastic performance of students after entering Fort Sill.

Fort Sill and Stewart educate over 500 Indian students. Closing these schools may result in many students quitting school rather than transferring hundreds of miles to another location. The closures can only aggravate the already high student turnover rate. Interior has recommended enrolling Fort Sill students at Riverside and Sequoyah and relocating Stewart students to Sherman, Phoenix or Intermountain. While the study report states that the schools have the capacity to house the additional students, a closer look reveals that this can only be accomplished by forcing students (possibly as many as 1134) to attend schools in the BIA area in which they live. This suggestion would further deteriorate the boarding school system. Interior would all but eliminate its policy of allowing parents to select the schools for their children to attend.

Fort Sill and Stewart have health services on their grounds. The closing of both schools will probably result in the loss of these Indian health services for both areas.

A number of assumptions were made by Interior in recommending the school closings. First, their recommendations were based on the potential enrollment capacity figures for each school. The study details the 1979 enrollment, the present capacity, and the potential capacity of each school. The potential capacity figures are not currently applicable since the numbers are based on space available after renovations are completed. Even if, as Interior has suggested, only those students from the specific BIA school area were allowed to attend the schools in that area, the capacity would still be inadequate for the Anadarko-Muskogee area and barely adequate for the Phoenix area. (See table below.)

	Total enrollment of student from the BIA area	Enrollment of students from other areas	Capacity
Anadarko-Muskogee area	581	266	556
Phoenix area	2,011	405	2,250

For example, if Fort Sill were closed along with Chilocco, the 581 Oklahoma students enrolled at the four schools would have to be relocated in the 556 spaces remaining at the Riverside and Sequoyah schools. In addition, parents of the 266 students from other BIA areas currently attending Anadarko-Muskogee area schools would no longer be able to determine which school their children will attend.

Second, while Interior says it has considered the cost factor of renovations to meet the potential capacity figures, the study never details those totals. The following table, compiled from the facility inventory reports used by Interior, summarizes the renovation costs of meeting the school's potential capacity in the Anadarko-Muskogee and Phoenix areas.

	Fort Sill	Riverside	Sequoyah
Anadarko-Muskogee area:			
Building costs:			
Major repairs	$1,068,540	$806,880	$1,191,980
Safety	120,775	536,740	536,725
Handicap	195,960	104,505	75,220
Energy	215,990	208,500	[1] 100,305
Total building costs	1,601,265	1,656,525	1,904,230
Site costs	47,900	130,565	113,175
Cost to upgrade	1,649,165	1,796,090	2,017,405
Major improvement	64,110	661,960	151,170
Total	1,713,275	2,458,030	2,168,575
	Sherman	**Stewart**	**Intermountain**
Phoenix area:			
Building costs	$135,850	$8,268,635	$7,011,789
Site costs	25,000	1,052,527	3,501,422
Cost to upgrade	160,850	9,321,162	10,513,211

[1] Includes environmental improvement.

As you can see, Fort Sill is the least expensive school to renovate in the Anadarko-Muskogee areas. Even Stewart is less costly than Intermountain in the Phoenix area. One must question the school closings in the name of cost-effectiveness. Indeed, it has been suggested that the schools have been targeted for closure not because of cost at all, but because of pressure to meet the President's energy conservation goals for the Interior Department.

Third, Interior suggests that Riverside, Sequoyah, Intermountain, and Sherman be renovated to house the Stewart and Fort Sill students. They refer to the facility inventory reports as the source of information on building renovation. While the survey reports detail every item that must be repaired in upgrading the facilities, there is no mention of how long the renovations might take. Interior staff, who were expected to release the report in December, now explain that timing was never thought to be a problem. Although they did not know how long the renovations would take, they assumed that plenty of time was available to complete the necessary work. However, the ORBS report was completed five months late. No attempt by the Study Group was made to investigate the effect of such a delay on the recommendations to close the schools at year-end. Now Congress is looking at the recommendations in the report to determine the future of the Fort Sill and Stewart students.

Riverside and Sequoyah are expected to enroll the Fort Sill students next year. The ORBS study suggests this is possible if existing occupied dorms are renovated at Riverside and vacant dorms are renovated at Sequoyah. NFFE believes more study should have been given to the facility inventory reports from which Interior made its recommendations. The reports explain that classroom at Riverside for "science, music, home economics, practical arts, and physical education are inadequate".

In addition, the five cottage dorms at Riverside have no useful life. They were recommended to be demolished unless the mechanical systems were replaced. Interior was fully aware of the required mechanical renovation in the cottage dorms yet they still proposed housing the Fort Sill students at Riverside for the upcoming school year.

The vacant dorms at Sequoyah were also recommended for renovation by Interior to house Fort Sill students. One dormitory, according to the facility inventory reports, was considered unsafe for fire safety reasons. Another vacant dormitory was classified as "not economically repairable" yet Interior has recommended its repair in order to house the Fort Sill students. Planning is now underway to renovate the building at an $855,000 cost rather than follow the engineer's suggestion to replace it for $1,500,000.

It is also unlikely that the $7 million worth of building renovation of Intermountain can be completed before beginning the next school year.

Those in Interior who recommended closing Fort Sill and Stewart at the end of this school year and relocating the students knew very little, if anything, charged with attempting to compute the renovations before the next school year.

According to the planners, if the renovations began immediately, the work could not be completed before November. More likely, obtaining funding and contractors will delay the renovation several more months.

Finally, Interior has assumed that the 200 employees at Fort Sill and Stewart will not be harmed by the sudden school closings. This assumption could not be further from reality. Many of the employees have lived in the Fort Sill or Stewart area for years. Continuing employment with the BIA would force families to relocate hundreds of miles away. The late decision to close also prevents the employees from obtaining employment in the area public schools for next fall. Any public school openings will have been filled at this late date. Delaying the school closings for a year would allow the employees the chance to find area jobs or to adjust to a transfer to another BIA school.

As you know, the House Interior Appropriations Committee has already approved the Department's recommendation to close the Fort Sill and Stewart boarding schools. The Committee report states that the decision was made after a thorough and careful review. Yet, NFFE believes the Committee based its decision on incorrect and inadequate facts.

The Committee Report stated that Fort Sill and Stewart were considered "unsafe and too expensive to repair" and that the students could be housed in facilities of "higher quality." A careful comparison of the other facilities shows this to be inaccurate.

The ORBS facilities were reviewed to determine every repair or improvement necessary to meet the required standards. It was explained to NFFE that very few buildings presently occupied across the country, including some new buildings, would meet all the standards without some upgrading. Indeed, each of the boarding schools reviewed in the facility inventory report needed some improvements to meet all the required standards, not just the Fort Sill and Stewart schools.

House Interior Appropriations explained that Fort Sill had 22 structures recommended to be demolished. It overlooked explaining that Riverside and Sequoyah—the schools expected to house the Fort Sill students—had 24 and 10 buildings, respectively, that were recommended to be replaced or demolished.

Buildings at Fort Sill, Riverside, and Sequoyah were categorized according to a facility condition code, as follows:

Code	Number of buildings		
	Fort Sill	Riverside	Sequoya
1—Maintenance	4	11	13
2—Major repairs	17	8	30
3—Major improvements	0	1	0
4—Replace, demolish, other	23	24	10
Total	44	44	53

In addition, each building was coded as to safety. Fort Sill, categorized by House Interior as "unsafe", had 8 buildings coded unsafe, Riverside, called "basically safe" by the Committee, had 7 buildings that were unsafe. Sequoyah, whose facilities were reported as "in good condition" and meeting health and safety standards, had 9 buildings classified as unsafe. Contrary to the Committee's statements, it is apparent that the facility condition at Fort Sill is no worse than at the other schools.

The House report puts the cost to make Fort Sill "safe and in reasonable condition" at $6.2 million. Since this cost figure is $4.5 million above the total given in the facility inventory report, we wonder where the Committee obtained this information. Nevertheless, Fort Sill costs should be compared with the other schools. I have already provided a comparison of the cost to upgrade the schools as given by the inventory reports. Additionally, figures are compared below for the replacement of buildings in the No. 4 code category [replace, demolish, other] which the evaluators felt should not be renovated.

Replacement construction

	Cost
Fort Sill:	
Educational facilities (replace 5 buildings)	$1,586,400
Physical education facilities (replace 2 buildings)	2,057,400
Total	3,643,800
Riverside:	
Maintenance shop and storage (replace 4 buildings)	$499,780
Gymnasium and music complex (replace 5 buildings)	1,764,180
Home economics and science (replace 8 buildings)	379,730
Industrial arts (replace 1 building)	403,850
Roads maintenance (replace 1 building)	325,490
Administration (surplus 3 buildings, return 1 building to a quarters)	387,200
Total	3,759,680
Sequoyah:	
Addition to academic	$370,260
Farm quarters	75,680
Vocation agriculture shop	150,770
Total	596,660

Even if replacement were undertaken rather than repairs, the data shows Fort Sill facilities requiring no greater expenditures than the Riverside school. It seems the House accepted Interior's recommendations without analyzing all of the facts. NFFE can only hope that the Senate will take a more careful look at Interior's findings before making its final decision regarding the future of the Fort Sill and Stewart Schools. In summary, if Congress approves the school closings for this year, Interior will be a small step closer to meeting its energy standards. And those Indian students deciding to return to school and to relocate hundreds of miles will be forced into overcrowded, inadequate boarding schools. NFFE urges Congress to carefully investigate Interior's findings and recommendations before deciding it is worthwhile to cut $1 million from the Indian off-reservation boarding school system and hence, to disrupt the lives of thousands of Indian students and hundreds of BIA employees. Indeed, despite Interior's findings, we believe each of the remaining boarding schools serves specific needs and should remain open. Since the study was inadequate, we recommend that Congress carefully evaluate the students' individual needs and the true cost-effectiveness of the boarding school system in the upcoming year.

The furloughing of BIA teachers

The BIA has for many years filled education positions that were either career-permanent or career-seasonal. The permanent employees worked 26 pay periods per year. They taught summer school or were given other duties during the period of the students' summer vacation. Career-seasonal employees, on the other hand, are subject to being placed on unpaid furloughs during the summer. The furloughs can last from one biweekly pay period to as many as ten, although the typical furlough lasts two to four pay periods.

Since 197[illegible], the BIA has had a policy that employees would not be converted from permanent, full-time to subject-to-furlough positions. The Bureau anticipated that its mission required that some employees be retained on a full-time basis. However, in January of this year that policy changed. Because of the impact of the formula funding mechanism provided for in Public Law 95–561, many schools faced budget cuts for fiscal year 1980 and, because of inflation, even larger cuts in fiscal year 1981. Formula funding was implemented in stages so the impact might be eased. In fiscal year 1980, no school may receive less than 90% or more than 110% of its fiscal year 1979 budget. But in fiscal year 1981, schools may receive as little as 70 percent of their fiscal year 1979 budget. In order to give the schools the "flexibility" to meet these budget restraints, the Bureau allowed the agencies the opportunity to convert employees to furlough positions. Nearly all schools in all BIA agencies have exercised this opportunity. Thousands of employees who were hired on a permanent, full-time basis suddenly find themselves subject to periods of lay off each year.

We understand the Bureau's purpose in making these conversions. We also realize that the formula funding process is now merely a means of distributing the funds appropriated by Congress and that, soon, the Bureau intends for it to be a means of developing budgets that will provide funds necessary for operating a quality education system for Indian children. However, we also see the devastating impact these furloughs have on employees, their families, and their communities.

While it is true that most public school teachers do not work during the summer vacations, it is also true, particularly where their salaries are set through collective bargaining, that they receive 12 months' salary for the 10 months of the school term. In fact, many school systems spread these salary checks over the full calendar year. BIA educators receive no salary at all when they are furloughed. Other options available to many public school teachers, such as teaching summer school are also not open to BIA personnel. The budget constraints now preclude active summer school programs.

The cruelest blow is the fact that these workers cannot even receive unemployment compensation during their period of lay off. Section 3304(a)(6) of Title 26 U.S.C. denies compensation to employees of education institutions for time between school years or terms if they have a reasonable expectation that they will be hired back for the next year or term. BIA educators in furlough positions, like construction workers, face periods of time without work, hence without pay. However, unlike construction workers, the benefits society provides to seasonal employees are denied them.

The employees we represent did not create the financial mismanagement that caused Congress to include the formula funding mechanism in Public Law 95–561. But they are the ones that are suffering from it. I have heard from our Locals across the country. Employees are faced with lengthy furloughs with no source of income. Many of them live in isolated areas where jobs in the private sector are not available for temporary employment. Although they are without income, their financial obligations remain the same. Employees worry that their homes, automobiles, and other items bought on credit are in jeopardy. Those employees living in BIA-owned housing are even expected to pay the rent for the period of furlough. If furloughs are necessary, Congress should see to it that these dedicated Federal employees are not forced to spend uncertain periods of time without any source of income. These employees should be eligible to receive unemployment compensation.

Morale among BIA educators is at an all-time low. Schools are closing and programs are being curtailed. New hires are coming on board under the new personnel system established under Public Law 95–561. This system provides less pay, less leave, and less job security than the civil service system. Now those permanent full-time employees remaining are seeing their own security threatened. We must seriously wonder how long high-quality educators will be willing to work for the BIA. The conversions to subject-to-furlough positions are harmful to the Bureau and to Indian education. As firm supporters of the BIA's mission of providing a first-rate education to Indian children, we must protest these conversions and the furloughs they generate. When employees are forced to work under deteriorating conditions, the mission of the agency is bound to suffer.

In order to improve morale and, therefore, Indian education overall, NFFE makes two recommendations. First, that Congress approve funding for the BIA sufficient to convert employees now on subject-to-furlough status to career-permanent. Second, that Section 3304, title 26, United States Code, be amended to permit BIA employees to receive unemployment compensation during the summer months.

The boarding school studies mandated by Public Law 95–561

Interior has implemented a new system mandated by Public Law 95–561 for allocating BIA education program funds. The needs of a student (staff, supply, physical education, music, etc) in grades 4–8 have been established as the basic weighted student unit (WSU). Students with needs different from the basic—including grades 1–3, grades 9–12, bilingual, specific learning disabilities, severely and profoundedly retarded in a residential program, in need of intense residential guidance—require additional expenditures for their schools. These add-on factors are proportioned according to the cost over the basic WSU. The WSUs per school are projected based on the number of students fitting into each of the need areas and then added together to determine the total program WSUs. A separate WSU formula was utilized to determine the additional needs of a small school (defined as a school with under 100 students) and of Alaskan schools.

We find many problems with the new system. Since the education and dormitory standards have not yet been completed, it is unclear how Interior could accurately determine the cost of a basic education as well as the cost of extraordinary student needs. For example, the WSU for intense residential guidance has been set at approximately 0.4 units. Without an established standard for the counselor-student ratio, for instance, it is impossible to determine the formula proportion needed for intense residential guidance. Obviously, the costs would not be the same with a 1:25 counselor-student ratio and a 1:100 ratio standard.

Second, the WSU proportion allotted for each additional cost factor is static. It seems to us that Interior should have completed the standards before determining the proportional cost of these programs. NFFE believes Interior must revise the WSUs for each program after the standards are established. These factors should continue to be flexible to account for any future changes in student needs and in new teaching methods for each area.

National education and dormitory standards were directed to be established by April 1980. The delays have caused the formula funding system to work in reverse. Interior has been determining the cost to educate the basic grades 4–8 by dividing the total amount of money requested by the total number of WSUs projected. This method could result in a much lower appropriation per WSU than is actually needed to educate students. If the standards were in place, Interior could determine the cost of 1 WSU based on the national criteria and then could properly determine its funding needs for the year. Since the standards will be so crucial to future levels of funding, NFFE hopes for an opportunity to comment on them. We suggest an oversight hearing be held after the standards are released so a careful Congressional review can be made of Interior's education and dormitory standards.

The Task Force Report on BIA Reorganization

One final note. Similar to the slipshod way the formula funding mechanism was developed, the Department of Interior is now about to implement another provision of PL 95-561 in an outrageous manner; the delegation of line authority over BIA educators to the Director of the Office of Indian Education Programs. We received on July 21 the report of a departmental task force which was created to study how to effect this change. This task force recommends separating Indian education completely from the rest of the Bureau. Nowhere in this study is there a discussion of financial costs or personnel involved in making such a split. NFFE cautioned department officials about the folly of this move. Apparently, our advice was not heeded. We will be making an extensive review of this task force report and will present our analysis to the Committee as soon as it is completed. In the meantime, we hope the Committee takes a close look at this proposal to ensure that the best interests of Indian education would be served by its implementation.

That concludes my statement. I will be happy to answer any questions you may have.

United States Department of the Interior
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 21 1980

Mr. James Peirce
President, National Federation
of Federal Employees
1016 16th Street, N.W.
Washington, D. C. 20036

Dear Jim:

As promised in our meeting of June 11, 1980, concerning the Bureau of Indian Affairs reorganization (Office of Indian Education Programs), we are sending a copy of the task force report and the revised 130 DM.

Since this draft Departmental Manual differs minimally from our original submission for consultation purposes, on April 22, 1980, we are requesting your views by the close of business August 5, 1980.

Thank you for your cooperation

Sincerely yours,

[illegible] Morris A. Simms
Director of personnel

Enclosure

I - INTRODUCTION

This report presents the results of a study to develop options for an Office of Indian Education Programs (OIEP) organization to implement P.L. 95-561 (Title XI of the Education Amendments of 1978), as alternatives to the proposed OIEP organization submitted to the Department for review and approval. This Introduction presents the background, objective and scope of the study, the study approach, target dates, and the organization of the final report.

A. Background

The Office of Indian Education Programs provides educational opportunities to Indian youth attending Bureau, public, or tribally-operated schools. It is the focal point for and provides leadership in Indian education. The Office serves as an advocate for Indian education within the Department of the Interior and with Congress, other Federal agencies, state, county and local governments, the Indian people and the public.

The Office performs the following staff functions: administrative support, planning and program development, and management information systems support. In addition, four program areas provide technical and staff assistance in the development of policy and plans including guidelines, curricula and standards for programs dealing with elementary and secondary education, exceptional child education, student support services, and post-secondary education.

Further, representing the Office of Indian Education Programs in directing and assisting in implementation of the Office's policies and programs are agency and area based education offices as well as the post-secondary institutions. Local school programs built upon student cultural and linguistic backgrounds include but are not limited to instructional services, student resident services, health services, pupil transportation services, food services, student support services, and interscholastic programs.

The mission of the Office is to provide quality education opportunities from early childhood through life in accordance with the tribes' needs for cultural and economic well-being in keeping with the wide diversity of Indian tribes and Alaska Native villages of distinct cultural and governmental entities. The Office manifests consideration of the whole person, taking into account the spiritual, mental, physical, and cultural aspects of the person within family and tribal or Alaska Native village contexts.

It has been generally believed that the BIA-operated school system was in in decline, and that programs such as Johnson-O'Malley along with preference of Indian parents would lead more Indian children to public schools. Such trends have levelled out in recent years. Improved health on reservations, greater Indian self-awareness and increased dissatisfaction with public school sensitivity to Indian children have contributed to this fact. BIA-operated schools may be at a turning point where, instead of being a "holding action" while the public school systems gradually assumed educational responsibility, BIA schools by Indian self-determination may be assuming a position as a permanent system for educating Indian children.

In Fiscal Year 1980 the Indian Education activity involved 97 Day Schools, 53 Reservation Boarding Schools, 14 Off-Reservation Boarding Schools, and 45 Contract Schools. In addition, 15 Dormitories were being operated. Appendix 1 shows the geographic location of these facilities by type. The total number of students involved in the Indian Education program for FY 1980 was 43,341.

In November of 1978 Congress passed and the President signed P.L. 95-561. This law contained several major amendments to Indian Education activities and Title XI of the law required specific changes in the administration of Indian Education programs.

Section 1126 of the Act provides in part that in carrying out Indian education programs, "The Assistant Secretary (Indian Affairs) shall carry out such functions through the Director of the Indian Education Programs within the Bureau" ...and, "The Director of the Office shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau". In addition, Section 1126 also states that "Nothing in this Act shall be construed to require the provision of separate support services for Indian Education."

In response to these provisions the Assistant Secretary - Indian Affairs submitted to the Department, for approval, a proposed Departmental Manual (DM) release establishing a new organization for the administration of Indian Education Programs.

Significant aspects of the proposed organization were as follows:

- OIEP reports directly to the Assistant Secretary - Indian Affairs, and the Director, OIEP is a line officer providing executive direction in the management of Indian Education programs. The Commissioner of Indian Affairs has no line authority over the Bureau's Office of Indian Education Programs;
- Bureau Area Directors and Bureau Agency Superintendents have no jurisdiction over OIEP;
- Area Education Offices have no jurisdiction over local schools or over Agency Education Offices and their functions;
- Local schools report to Agency Education Offices;
- A Management Information Systems Staff is created and reports to the Director, OIEP;

- The Commissioner of Indian Affairs provides administrative support services to the Director, OIEP;
- Off-Reservation Boarding Schools report to the Area Education Program Administrators and are removed from the Bureau's listing of principal field offices.

During the course of review of the proposed organization by the Office of the Secretary several major concerns were expressed. A May 21 memo from the Assistant Secretary - Policy, Budget and Administration referred these to the Assistant Secretary - Indian Affairs. Those concerns are summarized below:

- There are differing interpretations of P.L. 95-561 pertaining to the organization structure of the OIEP;
- The span of control of the Director, OIEP is too large;
- Insufficient information is provided on the probable adverse impacts of establishing the organization;

The Assistant Secretary - Policy, Budget and Administration also informed the Assistant Secretary - Indian Affairs that he was requesting a Solicitor's interpretation of P.L. 95-561 on three specific issues. The June 5 opinion of the Solicitor (Appendix II) establishes three major points. In summary, these are:

- The Secretary has the discretion to place OIEP either outside BIA or within the BIA structure;
- The Director, OIEP can carry out his functions through intermediate education personnel; and
- Support services can be provided to the OIEP through the BIA or separate from the BIA, at the Secretary's discretion.

Subsequent to a meeting between the Assistant Secretary - Indian Affairs, the Assistant Secretary - Policy, Budget and Administration and congressional staff members from the House Committee on Education and Labor, it was agreed that a staff task force would be convened to report to the two Assistant Secretaries on alternative approaches to establishing an organization for the administration of the Indian Education Programs. The staff group was established and jointly announced by both Assistant Secretaries by memorandum of June 9, 1980 (Appendix III).

B. Objective and Scope of the Study

The objectives of the staff effort were as follows:

- To devise means of dealing constructively with the concerns expressed by the Assistant Secretary - PBA in his May 21 memo to the Assistant Secretary - IA.

- To draft necessary changes to the proposed OIEP 130 DM proposals and/or to develop procedures or other operational guidance to ensure rational administrative support for the new organization.
- To suggest, for a second phase of the effort, options for new organizational concepts for the Assistant Secretary - IA, BIA and OIEP to provide firmer long-term solutions to issues posed by P.L. 95-561.
- To accomplish the above with ongoing communication with and input from management.

The staff effort concentrates on questions concerning OIEP. With the 1980-81 school year approaching and with school systems nationwide now hiring teachers and otherwise planning and preparing for the new year, it was deemed particularly important to settle OIEP organizational concerns and arm OIEP officials with appropriate authority to plan and prepare for the new year within the intent of P.L. 95-561.

C. Approach and Target Dates

The approach used for the study was:

- Assemble a study team.
- Organize study team and assign initial tasks (June 9).
- Begin implementation of specific work on all issues (June 12).
- Complete interim report (June 18).
- Complete organizational analysis, including suggested changes to DM proposal for delivery to Personnel members of the Task Force for impact analysis (June 26).
- Complete all analysis, findings and conclusions (July 8).
- Obtain Assistant Secretarial feedback and guidance (July 11).
- Submit draft report (July 21).

The personnel portion of the task force effort was divided into two phases (1) impact analysis by June 26 of the current 130 DM proposal; (2) impact analysis by July 8 of the study team's suggested changes to the 130 DM proposal, together with comments on general impact of broad organizational options suggested by the task force. To assess the personnel impacts field visits were conducted during the week of June 16 to the following locations.*

Eastern Area Office

Cherokee Agency
Choctaw Agency

Albuquerque Area Office

Southern Pueblos Agency
Northern Pueblos Agency
Jicarilla Agency

Phoenix Area Office

Pima Agency
Salt River Agency
Western Navajo Agency
(via telephone)

Aberdeen Area Office

Cheyenne River Agency
Crow Creek Agency
Lower Brule Agency
Standing Rock Agency

Navajo Area Office

Navajo Area Office
Navajo Area Office
(Administration)
Chinle Agency
Eastern Navajo Agency
Ft. Defiance Agency*

---

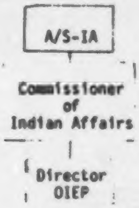
* During the week of July 19-23 further field data will be gathered from the Juneau Area Office and the Bethel Agency.

II - ORGANIZATION OPTIONS

A. OIEP Reporting Relationship

The Solicitors opinion of June 5, 1980 (see Appendix II), stated that the "Secretary has the discretion of placing OIEP outside the BIA." This Chapter presents the two options of having the OIEP report to the Assistant Secretary - Indian Affairs through the Commissioner of BIA or reporting directly to the Assistant Secretary - Indian Affairs.

Option 1: The Director, OIEP reports to the Assistant Secretary - Indian Affairs through the Commissioner of BIA.



Pros	Cons
• Maintains Status Quo.	• Difficult to implement provisions of P.L. 95-561 through existing BIA field structure, i.e., BIA Area/Agency Directors may not supervise OIEP programs.
• Minimizes A/S-IA involvement in day-to-day operations and emphasizes policy role.	• Makes Commissioner's role more difficult.
• Minimizes concern over split off of OIEP to the Department of Education.	• House Ed. & Labor Committee likely to oppose.
• Minimizes labor union concerns.*	• Probable major opposition by OIEP headquarters/field personnel.
	• Does not give new and independent authority to the Indian Education to the extent envisioned by the sponsors of P.L. 95-561.

B. Organizational Options, OIEP

This section presents options, (within the recommended option of Director, OIEP reporting directly to the A/S BIA) for the internal organization of Indian Education program under the Director, OIEP, the pros and cons associated with each and the study groups recommendation on the organization option that should be implemented. In addition, this chapter contains an alternative organization proposal for the staff functions in the immediate office of the Director, OIEP. The six organization options considered are:

- Option 1: OIEP proposal; Areas, Agencies, and Post-Secondary Schools report to the Director.
- Option 2: Insert Washington line officers to reduce span of control; creation of Assistant Directors--two for Agency operations and one for Areas and Post-Secondary Schools.
- Option 3: Functional line officers in Washington; create two Assistant Directors, one for Post-Secondary Education and one for Elementary and Secondary Education, along with an Administrative Officer reporting to the Director.
- Option 4: Area Education line officers; Agencies and Post-Secondary Schools report to Areas which in turn report to the Director.
- Option 5: Establish four Geographic Assistant Directors in the OIEP; Agencies, Area and Post-Secondary Schools report to an Assistant Director who reports to the Director.
- Option 6: Geographic Washington line officers for Field Operations (Redesignate Area and Agency Education Units as "Field Offices"); offices report to Assistant Directors for Field Operations.

Option 2: Director, OIEP reports directly to the Assistant Secretary - Indian Affairs.

A/S-IA

Commissioner
BIA

Director
OIEP

Pros

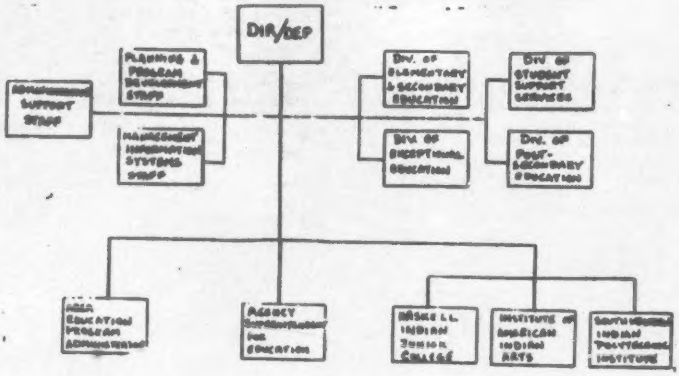
- Clear lines of authority for both the BIA and OIEP at headquarters/field.
- Probable support by House Ed. & Labor Committee.
- Support of OIEP personnel at headquarters/field.
- Places major emphasis on Indian Education Programs.
- Strengthens OIEP control over education program resources.
- Simplifies implementation of education programs under P.L. 95-561.
- 7. Appears to comply with the intent of the Act.

Cons

- May generate concern over eventual transfer of OIEP to Department of Education.
- May increase A/S-IA involvement in day to day operations at the expense of his policy role.
- Potential for problems with administrative services.
- Potential for problems with labor union.*

Recommendation: The Task Force recommends that Option 2 be adopted. Option 2 is within the authority of the Secretary as interpreted by the Solicitor in his June 5 memo on OIEP organization. It is consistent with the expectations of the proponents of P.L. 95-561. It provides emphasis for the program as intended by the House Education and Labor Committee.

Option 1: **Current DM proposal; Areas, Agencies, and Post Secondary Schools report to the Director**


DIR/DEP
ADMINISTRATIVE SUPPORT STAFF
PLANNING & PROGRAM DEVELOPMENT STAFF
MANAGEMENT INFORMATION SYSTEMS STAFF
DIV. OF ELEMENTARY & SECONDARY EDUCATION
DIV OF EXCEPTIONAL EDUCATION
DIV OF STUDENT SUPPORT SERVICES
DIV. OF POST-SECONDARY EDUCATION
AREA EDUCATION PROGRAM ADMINISTRATOR
AGENCY SUPERINTENDENT FOR EDUCATION
HASKELL INDIAN JUNIOR COLLEGE
INSTITUTE OF AMERICAN INDIAN ARTS
SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE

Option 1 is the reorganization proposed by the Office of Indian Education Programs. This option calls for existing education program operations located at Area and Agency offices as well as at the three Post-Secondary Schools (Haskell Indian Junior College, Southwestern Indian Polytechnic Institute and the Institute of American Indian Arts) to report directly to the Director, Office of Indian Education Programs.

There are no intermediate levels of authority between the Director's office and the offices/programs mentioned above.

There would be 49 persons reporting directly to the Director as follows: 12 Area Education Program Administrators, 26 Agency Superintendents for Education, the Presidents of the three Post-Secondary Schools, seven Central Office Division Chiefs and one Deputy Director.

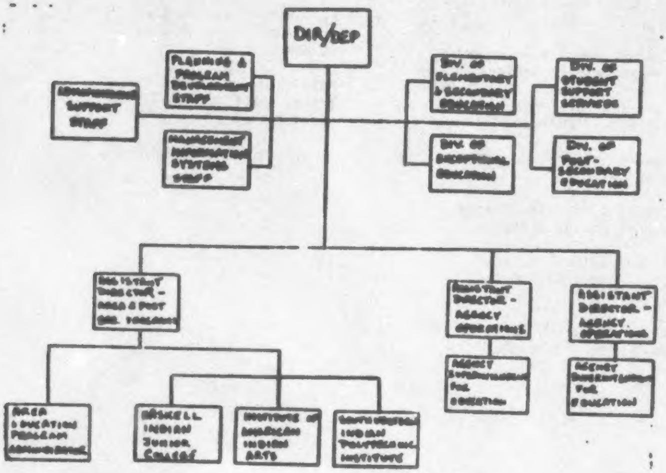
Pros

- No intermediate layers of authority.
- Has Congressional, Tribal Field Office support.
- Does not require amendment of existing regulations.
- Minimizes conflicts between Area/Agency Offices.
- No personnel/overhead increase required.
- Requires no further Tribal consultation.
- Permits staff flexibility in support of the Director.

Cons

- Span of control is too large.
- Director committed to operational role at the expense of policymaking to implement the new statute.
- Headquarters line/staff relationships are confused.
- No filtering process for the Director.
- Union opposition potential.

Option 2: **Washington Line Officers to Reduce Span of Control; creation of Assistant Directors; two or three for Agency operations and one for Area and Post-Secondary Schools**


DIR/OEP
PLANNING & PROGRAM DEVELOPMENT STAFF
ADMINISTRATIVE SUPPORT STAFF
MANAGEMENT INFORMATION SYSTEMS STAFF
DIV. OF ELEMENTARY & SECONDARY EDUCATION
DIV. OF EXCEPTIONAL EDUCATION
DIV. OF STUDENT SUPPORT SERVICES
DIV. OF POST-SECONDARY EDUCATION
ASSISTANT DIRECTOR - AREA & POST SEC. PROGRAMS
ASSISTANT DIRECTOR - AGENCY OPERATIONS
ASSISTANT DIRECTOR - AGENCY OPERATIONS
AGENCY SUPERINTENDENT FOR EDUCATION
AGENCY SUPERINTENDENT FOR EDUCATION
AREA EDUCATION PROGRAM ADMINISTRATORS
HASKELL INDIAN JUNIOR COLLEGE
INSTITUTE OF AMERICAN INDIAN ARTS
SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE

This option calls for the establishment of an intermediate reporting level between the director and the field line officers. Division chiefs are staff to the Director.

This would require the establishment of three additional Office of Indian Education Programs (OIEP) positions, bringing the total to 77. Each Assistant Director would serve as a line officer reporting directly to the Director, OIEP, with certain Agency Superintendents for Education, the Area Education Programs Administrators, and the presidents of the three Post-Secondary Schools reporting to the Assistant Directors. The Assistant Directors (A/Ds) would supervise day-to-day program operations and would be delegated all responsibilities except Bureau policy-making responsibilities.

The Director, OIEP, will have 11 persons reporting directly to him/her under this option with each Assistant Director supervising from 4 to 17 persons. Three possible divisions of field offices are shown in Appendix III.

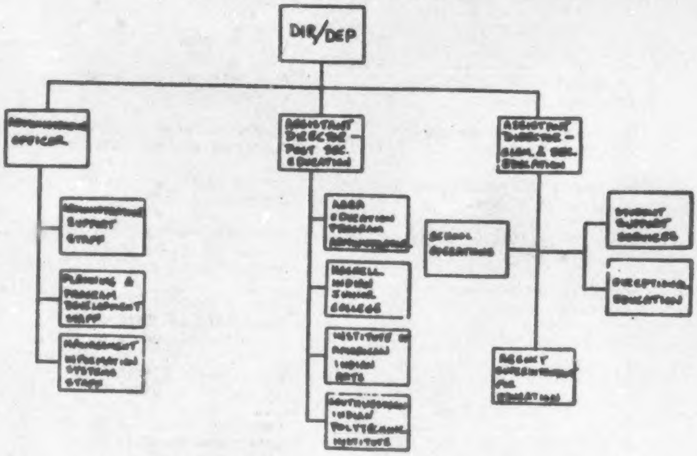
Pros

- Span of control is acceptable.
- Provides filtering process for the Director.
- Does not require amendment of existing regulations.
- Minimizes conflicts between Area/Agency offices.
- Requires no further Tribal consultation.
- Permits staff flexibility in support of the Director.
- Balance between Policy/Operational role of the Director.
- Permits clear delineation of headquarters line/staff roles.

Cons

- Adds intermediate layer of authority.
- Requires increased staff/overhead (though minimal) at headquarters.
- Potential for Congressional, Tribal and Field office opposition.
- Union opposition potential.

Option 3: **Functional Line Officers in Washington: Creation of two Assistant Directors, one for Post-Secondary Education and one for Elementary and Secondary Education, along with an Administrative Officer reporting to the Director.**


DIR/DEP
ADMINISTRATIVE OFFICER
ADMINISTRATIVE SUPPORT STAFF
PLANNING & PROGRAM DEVELOPMENT STAFF
MANAGEMENT INFORMATION SYSTEMS STAFF
ASSISTANT DIRECTOR - POST SEC. EDUCATION
AREA EDUCATION PROGRAM ADMINISTRATORS
HASKELL INDIAN JUNIOR COLLEGE
INSTITUTE OF AMERICAN INDIAN ARTS
SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE
ASSISTANT DIRECTOR - ELEM. & SEC. EDUCATION
SCHOOL OPERATIONS
STUDENT SUPPORT SERVICES
EXCEPTIONAL EDUCATION
AGENCY SUPERINTENDENT FOR EDUCATION

This option eliminates seven staff divisions/offices and incorporates their functions under two A/Ds and one Administrative Officer. A separate adminis-. trative staff is formed along with two functional Assistant Directors reporting to the Director. An Assistant Director for Post-Secondary Education has Area Offices and Post-Secondary schools reporting to him/her, and an Assistant Director for Elementary and Secondary Education has Agencies reporting to him/her.

This option reduces the number of the Director's administrative and programmatic staff reporting directly to the Director from seven (7) to three (3). It further reduces the number of people to four (4) reporting to the Director.

The Assistant Director for Post-Secondary Education would be responsible for the day-to-day operations of the three post-secondary schools and for Area Office program operations.

The Assistant Director for Elementary and Secondary Education would be responsible for Agency education program operations.

This Assistant Director would also have responsibility for the branches of Exceptional Education and Student Support Services.

The Administrative Officer would be responsible for administrative support service, planning and program development, and MIS.

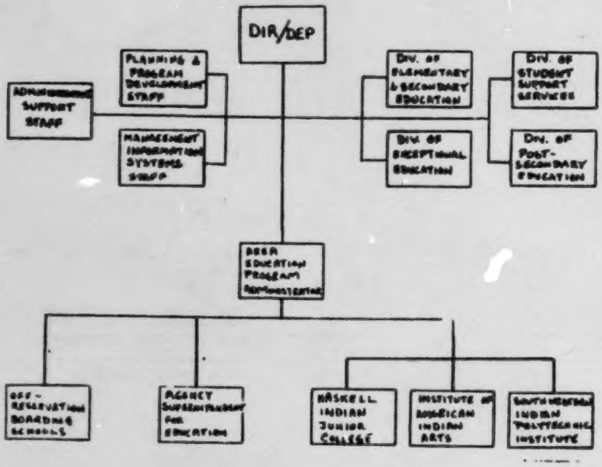
Pros

- Provides filtering process for the Director.
- Does not require amendment existing regulations.
- Minimizes conflicts between Area/Agency Offices.
- Requires no further Tribal consultation.
- No personnel/overhead increases required.

Cons

- Adds intermediate layer of authority.
- Overlap between Area/Agency functions at Headquarters.
- Policy/operational roles are mixed at A/D level.
- Potential for Congressional, Tribal and field office opposition.
- Span of control for A/D Elementary and Secondary Education is too large (29).
- Limits staff flexibility in support of Director.
- Personnel impact on Branch Chiefs and possibly other staff.
- Union opposition potential.

Option 4: Area Education Line Officers; Agencies and Post-Secondary Schools report to Areas which in turn report to the Director


DIR/DEP
PLANNING & PROGRAM DEVELOPMENT STAFF
ADMINISTRATIVE SUPPORT STAFF
MANAGEMENT INFORMATION SYSTEMS STAFF
DIV. OF ELEMENTARY & SECONDARY EDUCATION
DIV. OF EXCEPTIONAL EDUCATION
DIV. OF STUDENT SUPPORT SERVICES
DIV. OF POST-SECONDARY EDUCATION
AREA EDUCATION PROGRAM ADMINISTRATOR
OFF-RESERVATION BOARDING SCHOOLS
AGENCY SUPERINTENDENT FOR EDUCATION
HASKELL INDIAN JUNIOR COLLEGE
INSTITUTE OF AMERICAN INDIAN ARTS
SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE

This option has the Area Offices with direct line authority to the Director. The Agencies and Post-Secondary Schools would then report to the Area Offices.

Twenty-six (26) Agency education operations would report to twelve (12) Area education offices. The three (3) Post-Secondary Schools and twelve (12) Off-Reservation Boarding Schools would report to certain Area Offices. This means the Director would have responsibility for 20 persons: twelve (12) Area persons, seven (7) Central Office Division Directors and one (1) Deputy Director.

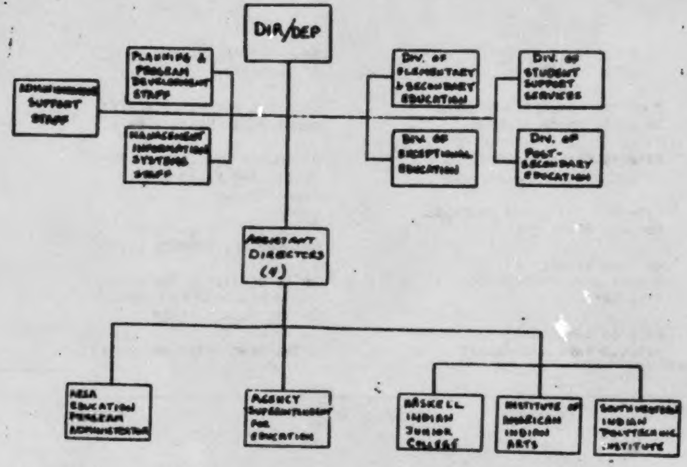
Pros

- No personnel/overhead increases required.
- Provides a filtering process for the Director.

Cons

- Span of control for the Director is unacceptable.
- Headquarters line/staff roles are confused.
- Adds intermediate layer of authority.
- Potential for Congressional, Tribal, and Field Office opposition.
- Requires amendment of existing regulations.
- Re-establishes Area/Agency conflict.
- Requires further Tribal consultation.
- Requires establishment of new management role for Area Education Personnel.
- Union opposition potential.

Option 5: Establish Four Geographic Assistant Directors in the OIEP; Agencies, Area and Post-Secondary Schools report to an Assistant Director who reports to the Director


DIR/OEP
Planning & Program Development Staff
Administrative Support Staff
Management Information Systems Staff
Div. of Elementary & Secondary Education
Div. of Exceptional Education
Div. of Student Support Services
Div. of Post-Secondary Education
Assistant Directors (4)
Area Education Program Administrator
Agency Superintendent for Education
Haskell Indian Junior College
Institute of American Indian Arts
Southwestern Indian Polytechnic Institute

This option calls for the creation of four (4) Assistant Directors at headquarters. The agencies, areas, and post-secondary schools in a geographic area will report to a particular Assistant Director.

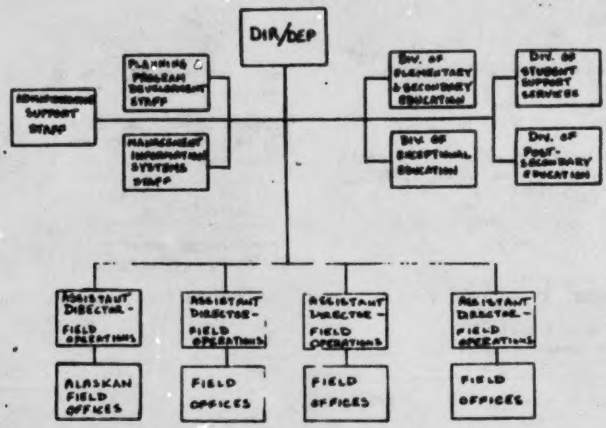
This would require the establishment of four additional OIEP positions, bringing the total of 78. Each Assistant Director would serve as a line officer reporting to the Director, OIEP, with certain Agency Superintendents for Education, Area Education Programs Administrators and/or Presidents of post-secondary schools reporting to him/her. The Assistant Director would supervise day-to-day program operations with delegated responsibility for all matters except policy-making.

This option differs from option 2 in that (1) the Assistant Directors deal with all field offices (Agency, Area, and Post-Secondary Schools) within his/her geographic region and (2) the five Navajo Agencies are divided between two Assistant Directors.

The Director, OIEP, would directly supervise twelve persons. Each Assistant Directer would supervise from four to fourteen persons. A proposed division is included as Appendix IV.

Pros	Cons
• Span of control is acceptable.	• Adds intermediate layer of authority.
• Does not require amendment to existing regulations.	• Requires increased staff/overhead at Headquarters.
• Permits staff flexibility in support of the Director.	• Potential for Congressional, Tribal and Field Office opposition.
• Provides filtering process for the Director.	• Potential for conflict between Area/Agency Offices.
• Balance between policy operational role of the Director.	• Split of Navajo Agencies would probably be opposed by the Navajo Tribe.
• Permits clear delineation of Headquarters line/staff role.	• Union opposition potential.

Option 6: Geographic Washington Line Officers for Field Operations (redesignate Area and Agency Education Units as "Field Offices"); offices report to Assistant Directors for Field Operations


DIR/DEP
ADMINISTRATIVE SUPPORT STAFF
PLANNING & PROGRAM DEVELOPMENT STAFF
MANAGEMENT INFORMATION SYSTEMS STAFF
DIV. OF ELEMENTARY & SECONDARY EDUCATION
DIV. OF EXCEPTIONAL EDUCATION
DIV. OF STUDENT SUPPORT SERVICES
DIV. OF POST-SECONDARY EDUCATION
ASSISTANT DIRECTOR - FIELD OPERATIONS
ALASKAN FIELD OFFICES
ASSISTANT DIRECTOR - FIELD OPERATIONS
FIELD OFFICES
ASSISTANT DIRECTOR - FIELD OPERATIONS
FIELD OFFICES
ASSISTANT DIRECTOR - FIELD OPERATIONS
FIELD OFFICES

This option establishes field offices in lieu of Agency and Area Offices. Further, Assistant Directors for Field Operations would be established under the Office of the Director of Indian Education Programs for geographic areas.

The Assistant Directors for Field Operations would be responsible for the day-to-day operations of the education field offices. This would require establishing four positions at the headquarters office and the possible abolishment of certain positions at the current Area/Agency levels.

The seven (7) Divisions providing administrative and programmatic staff support to the Director would remain. The seven (7) Division Directors would then report to the Director.

The number the Director would directly supervise would then include four (4) Assistant Directors, seven (7) Division Directors and one (1) Deputy for a total of 12. The Assistant Directors would supervise from four to fourteen persons. A proposed division is attached. See Appendix IV (Option #5).

Pros	Cons
• Span of control is acceptable.	• Adds intermediate layer of authority.
• Eliminates conflict between Area/Agency Offices.	• Potential for Congressional, Tribal, Headquarters and Field opposition.
• Potential reduction in personnel/ overhead by abolishing current offices/functions.	• Will require Tribal consultation.
• Provides filtering process for the Director.	• Requires amendment of existing regulations.
• Permits staff flexibility in support of the Director.	• Union opposition potential.
• Balance between policy/ operational role of the Director.	
• Permits clear delineation of Headquarters line/staff roles.	

Recommendation: The Task Force recommends adoption of Option 2: Insert Washington line officers to reduce span of control; creation of Assistant Directors--two for Agency operations and one for Area and Post-Secondary Schools. Appendix III - B contains the recommended division of agency and area functions between the Assistant Directors. The selection of this organization option is based on the following considerations:

- Reduces the span of control of the Director to a manageable level.
- Provides the Director with senior officials in his office to follow up on details of implementing P.L. 95-561 at operating locations--Areas* and Agencies.
- Gives Agency and Area level operations a voice at headquarters not readily available at present.
- Does not reinsert Areas as "field supervisors" in the line, thus avoiding resumption of an old controversy.
- Have Agency and Area operations reporting to different Washington managers, making it less likely that Areas reinsert themselves de facto into Agency programs.
- Has minimal grade or structural impacts in Washington or the field beyond that already addressed in P.L. 95-561.
- Does not cause a visible change in proposed P.L. 95-561 operations or relations in the field which might require new consultation and reorientation.
- Is apparently acceptable to the Director, OIEP, Commissioner and Congressional Staff.
- Separates line from staff in Washington, but does not subordinate functional staff to the new A/Ds (i.e., functional staff still has access to the Director), reducing somewhat the potential for Washington-level resistance to the decision.
- Allows existing staff offices to serve all Washington line officers (the Assistant Directors as well as the Deputy Director and Director); requires the addition of only 6 A/D positions (including secretarial/clerical).

---

* Note that under P.L. 95-561 and associated regulations, Area Education Offices do retain certain operational programs--e.g., off-reservation boarding schools and certain Johnson-O'Malley and contract school operations--but are not given an intermediate management function over Agencies.

- Is flexible:
  - If after 2-3 years the role of the new A/Ds in implementing the statute is complete, the positions can be abolished (reverting to Option #1) without having to eliminate a large institutional base;
  - If the positions as designed have proved themselves, they can be retained; or
  - If the need to pursue other options has become apparent, Option #2 appears to be the most readily convertible because it restructures the least -- the present base is largely retained.

Additional Option: Organization of OIEP Staff Support Functions

The A/S-IA proposal for the organization of OIEP establishes three (3) administrative staff offices and four (4) staff program divisions. These appear in all of the OIEP organization options except number three which because of its organization along functional lines incorporates the staff program divisions within the functions of the line Assistant Directors.

There is another option for organizing these staff functions which is shown as Exhibit 1.

This option organizes the seven separate staff offices/divisions into two staff functions under an Administrative Staff Officer and a Program Staff Officer with full supervisory authority over their particular functions. This option can be superimposed on any of the proposed OIEP organization options with the exception of number three as noted above. Adoption of this option would have the effect of further reducing the Director's span of control by five in every organization option except number three where it cannot be adopted.

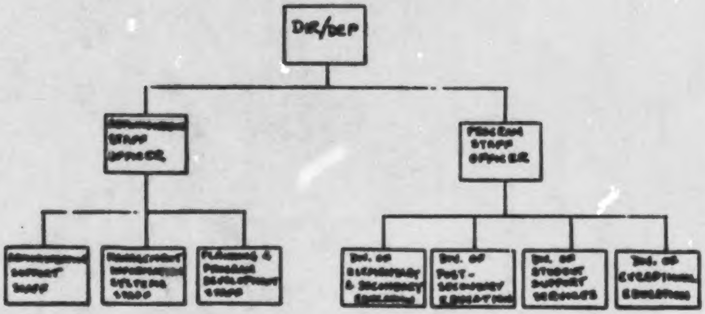
Pros

- Reduced span of control for the Director (except in Option 3).
- Improves coordination of administration and program staff functions.
- Reduces liklihood of program staff officers inserting themselves in line operations.
- Facilities development of cohensive program policy.
- Provides single point of contact for the line A/D's on administration and program matters.

Cons

- Requires additional supervisory positions and associated support overhead.

EXHIBIT 1


DIR/DEP
[illegible] STAFF OFFICER
PROGRAM STAFF OFFICER
[illegible] SUPPORT STAFF
MANAGEMENT INFORMATION SYSTEMS STAFF
PLANNING & PROGRAM DEVELOPMENT STAFF
DIV. OF ELEMENTARY & SECONDARY EDUCATION
DIV. OF POST-SECONDARY EDUCATION
DIV. OF STUDENT SUPPORT SERVICES
DIV. OF EXCEPTIONAL EDUCATION

0. 107

III - PERSONNEL IMPACTS

One of the primary objectives of P.L. 95-561 is to eliminate or curtail the education administration role of the Area Director, the Area education staff, and the Agency Superintendent. These changes - which are of some magnitude - will have significant impact on a number of managerial/executive positions and will result in the redeployment/reduction of a number of Area education staff positions.

The role of the Area education staffs would be curtailed under P.L.95-561 and would be limited essentially to administration of Johnson-O'Malley programs, liaison and coordinative responsibilities as needed, and a variety of special education related duties. The Area Education Program Administrator position and those of immediate staff will most probably suffer a loss of grade level due to the diminished program responsibilities and the concomitant loss of positions - especially professional positions. Regrettably, reduction in force actions will have to be accomplished to reduce the number of positions in the current organization. It is hoped the adverse aspects of this situation can be minimized by the redeployment of staff to the Agency or school level or through transfer of function procedures.

RIFs coming

The initial OIEP organizational proposal would have 7 Central Office division chiefs, 12 Area EPA's, 26 Agency Superintendents for Education, and other positions, all reporting to the Director, Office of Education Programs. This unusually large span of control situation would result in loss of management control and deterioration of communications at the field level.

It is felt that the use of Option II, with Assistant Directors at the Central Office, would reduce this span of control problem and provide desirable executive support to the Director, OIEP.

IV - PLAN OF ACTION

This chapter presents a Plan of Action to implement the organization of the Office of Indian Education.

30 Days

ACTION

- Approve and publish the OIEP DM Release
- Appoint an A/S-IA Coordinator for the remainder of the tasks to be accomplished through 1980
- Prepare and disseminate a memo to the BIA and OIEP employees informing them of action taken and subsequent efforts
- Consult with all interested parties on decisions on OIEP including Congress, Tribal Groups and Unions
- Issue uniform procedures and timetables (for transfer of functions and reductions in force) to Area Assistant Directors for Administration, Area EPA's and Agency Superintendent for Education

A. Determine what transfer of functions are possible between organizational elements (Area to C/O, Area to Agency, C/O to Area or Agency, etc.)

B. Issue directives to affected organizational elements to effect transfer of functions where possible. Establish reporting dates for transferred employees.

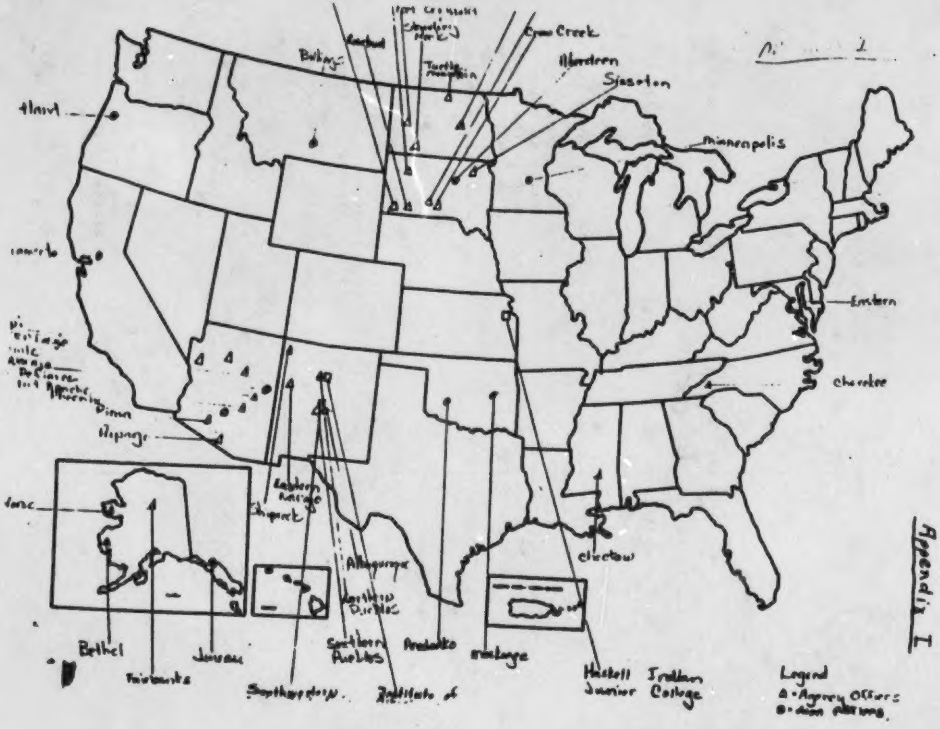
C. Develop and issue uniform reassignment procedures for identifying vacancies and candidates.

D. Establish reporting dates for reassigned employees

E. Develop and issue uniform RIF procedures

- Issue general notices
- Establish Retention Registers
- Issue individual RIF letters

Appendix I


Fort Berthold
Standing Rock
Crow Creek
Billings
Aberdeen
Turtle Mountain
Sisseton
Minneapolis
Hoopa
Eastern
Cherokee
Colorado River
Phoenix
Papago
Shiprock
Eastern Navajo
Albuquerque
Northern Pueblos
Southern Pueblos
Anadarko
Choctaw
Nome
Bethel
Fairbanks
Juneau
Haskell Indian Junior College
Legend
△ - Agency Offices
● - Area Offices

Appendix II

UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SOLICITOR
WASHINGTON, D.C. 20240

[illegible] 1980

MEMORANDUM

TO: Assistant Secretary - Policy, Budget & Administration

FROM: Solicitor Clyde Martz

SUBJECT: Organization of Office of Indian Education Programs

In a May 21, 1980 memorandum you have asked for interpretation of several provisions in the Education Amendments Act of 1978, P.L. 95-561, Title XI of which concerns Indian education. As indicated in your questions, repeated below, certain sections under Title XI impact the organizational structure of the Bureau of Indian Affairs (BIA) and the Office of Indian Education Programs (OIEP) as well as the relationship of the OIEP to the Commissioner of Indian Affairs and the Assistant Secretary - Indian Affairs.

Our opinion is incorporated in the answers to your questions. You have asked:

1. Is there anything in the law that would prohibit the formation of an Office of Indian Education Programs separate and apart from the Bureau of Indian Affairs? For example, section 1126(a) states in part, "The Assistant Secretary shall carry out such functions through the Director of the Office of Indian Education Programs within the Bureau...."

No. Under section 1126(a) the Secretary is to vest in the Assistant Secretary for Indian Affairs all functions with respect to formulation and establishment of policy and procedure, and supervision of programs and expenditures of Federal funds for the purpose of Indian education. The Assistant Secretary is, in turn, required to carry out Indian education programs through the Director, Office of Indian Education Programs. OIEP was an office existing prior to the Education Amendments Act; it had been created in the Bureau of Indian Affairs pursuant to Secretarial Authority. 130 Dept. Man. 3 (Release No. 1169, January 8, 1970), now 130 Dept. Man. 6.1. The reference in section 1126(a) to OIEP as "within the Bureau" we take to be descriptive of the Office, rather than a mandatory directive concerning its placement. Neither the language of section 1126(a) nor its legislative history indicate an intent to limit the authority of

BEST COPY AVAILABLE

the Secretary, under 5 U.S.C. 301, 1/ under 43 U.S.C. 1457, 2/ and particularly under section 1(a) of Reorganization Plan No. 3 of 1950 3/ to reorganize the Department, other than to require that Indian education programs be vested in the Assistant Secretary, and carried out through OIEP. Accordingly, the Secretary has the discretion to place OIEP outside of BIA.

2. Does the law require that education field supervisors report directly to the Director, OIEP, with no intermediate management levels as proposed by the OIEP? If this is the case, the Director, OIEP, will have 51 personnel reporting directly to him. The OIEP transmittal letter indicates this is a requirement of the law but we can find no such requirement.

2c. Section 1126(b) of P.L. 95-561 provides in part that:

> The Director of the Office [of Indian Education Programs] shall direct and supervise the operations of all personnel directly and substantially involved with provision of education services by the Bureau....

The legislative history of the Act indicates that this subsection "grants the Director of the Office of Indian Education Programs authority over all personnel who deal solely with education at the levels of Central, Area, Agency, and local offices." 4/ We would not interpret section 1126(b) as requiring that the Director personally supervise and direct those "...personnel directly and substantially involved with provision of education services by the Bureau." If this authority is exercised through intermediate education personnel then, in our opinion, the requirement of section 1126(a), that the Assistant Secretary carry out functions "...through the Director..." shall have been met.

1/ Under this section the head of an executive department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business and the use and custody of its property.
2/ This law provides that the Secretary, is charged with the supervision of public business relating to, among others, Indians.
3/ Section 1 titled "Transfer of Functions to the Secretary" provides in part: "(a) Except as otherwise provided in subsection (b) of this section [not pertinent here], there are hereby transferred to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department."
4/ H. Rept. No. 95-1137, 1978 U.S. Code Cong. & Adm. News, 5144.

BEST COPY AVAILABLE

3. Does the law contain any other restrictions which would limit the Department's ability to organize OIEP in any rational manner? For instance, Section 1126(b) states that "Nothing in this act shall be construed to require the provision of separate support services for Indian education." Would this restrict the separation of support services from both the OIEP and the Bureau of Indian Affairs and the provision of these services from a new organizational entity reporting directly to the Assistant Secretary - Indian Affairs? Does this law restrict the OIEP from having its own support staff?

We would answer the first part of this question, no. We say this because the Act places additional responsibilities upon the Secretary without limiting his authority under the laws and Reorganization Plan named in our answer to your first question. In regard to the quote from section 1126(b) and the related question, the section leaves to the discretion of the Secretary how he shall provide support services for Indian education. The quoted sentence is not a mandate as to how support services are to be provided. We also answer the second part of the question in the negative. In other words, because support service is incidental only to the education functions to be performed through the Director, these services may be provided by a new organizational entity reporting directly to the Assistant Secretary - Indian Affairs, or, in answer to your last question, the services could be provided by its own support staff. The determining factor should be what constitutes the most effective organization in order to carry out the purposes of Title XI.

BEST COPY AVAILABLE

Appendix III

JUN 09 1980

Memorandum

To: Commissioner of Indian Affairs
Director of Indian Education Programs
All Office Heads - Policy, Budget and Administration
and Bureau of Indian Affairs

From: Assistant Secretary - Policy, Budget and Administration
Deputy Assistant Secretary - Indian Affairs

Subject Indian Education Organization Project

Over the next 30-45 days, PBA and IA will be involved in a joint project to finalize Departmental Manual changes and other matters necessary to organize the new Office of Indian Education Programs. A Task Force has been formed to carry out this effort. The staff directly involved will be:

Chuck Hughes, A/S-IA
Dale Jones, PBA
Dick Balsiger, BIA
Bernice Struhs, PBA
Frank Carroll, BIA
Larry Castleman, SOL
Matt Sliwiak, EGS
John Cordyak, EGS
Len Emerson, NPS
Stan Doremus, PBA
George Lynn, BIA
Frank Clark, BIA
Betty Walker, BIA

This is a top priority effort, involving a high level of Secretarial and Congressional interest. Should any of the above staff contact you or your staff for information or other assistance, we expect you to take every initiative to ensure that we are provided with the support needed to bring this matter to a successful conclusion.

BEST COPY AVAILABLE

Appendix [illegible] - Division of Field Offices Under Assistant Directors

Assistant Director #1 (Area Education Offices)	Assistant Director #2 (Agency Education Offices)	Assistant Director #3 (Agency Education Offices)
Aberdeen	Bethel	Cherokee
Albuquerque	Chinle	Cheyenne River
Anadarko	Eastern Navajo	Choctaw
Billings	Fairbanks	Crow Creek
Eastern	Ft. Apache	Ft. Berthold
Juneau	Ft. Defiance	Ft. Totten
Muskogee	Hopi	Lower Brule
Navajo	Nome	Pine Ridge
Phoenix	Papago	Rosebud
Portland	Pima..	Sisseton
Sacramento	Shiprock	Standing Rock
(Post Secondary Schools)	Western Navajo	Turtle Mountain
Haskell		Northern Pueblos
Institute of American Indian Art (IAIA)		Southern Pueblos
Southwest Indian Polytechnic Inst. (SIPI)		
15 line officers	12 line officers	14 line officers
51 schools	127 schools	54 schools
17 % students/$'s	53 % students/$'s	30 % students/$'s

V-B

Appendix [illegible] - Division of Field Offices under Assistant Directors

Assistant Director #1
(Area Education Office)
(Post SS)
Same as 1

15 line officers
51 schools
17 % students/$

Assistant Director #2
(Agency Education Office)

Chinle
Eastern Navajo
Ft. Defiance
Shiprock
Western Navajo
~~Cherokee~~
~~[illegible]~~
Ft. Apache
Pima
NORTHERN PUEBLOS
SOUTHERN PUEBLOS

11 line officers
100 ~~97~~ schools
53 % students/$

Assistant Director #3
Agency Education Office)

~~Northern Pueblos~~
~~Southern Pueblos~~
Bethel
Fairbanks
Nome
Crow Creek
Cheyenne River
Ft. Berthold
Ft. Totten
Lower Brule
Pine Ridge
Rosebud
Sisseton
Standing Rock
Turtle Mountain
CHEROKEE
CHOCTAW

15 line officers
81 ~~[illegible]~~ schools
30 % students/$'s

III

BEST COPY AVAILABLE

V-C

Appendix ~~A~~ - Division of Field Offices under Assistant Directors

Assistant Director #1 (Area Education Office) (PSS)	Assistant Director #2 (Agency Education Office)	Assistant Director #3 Agency Education Office)
Same as 1	Chinle	Bethel
	Eastern Navajo	Fairbanks
	Ft. Defiance	Nome
	Shiprock	Crow Creek
	Western Navajo	Cheyenne River
	Cherokee	Ft. Berthold
	Choctaw	Ft. Totten
	Northern Pueblos	Lower Brule
	Southern Pueblos	Pine Ridge
		Rosebud
		Sisseton
		Standing Rock
		Turtle Mountain
		Ft. Apache
		Hopi
		Papago
		Pima
15 line officers	9 line officers	17 line officers
1 schools	92 schools	89 schools
.7 % students/$	41 % student	32 % students/$

Appendix IV

Region 1 (Western)	Region 2 (Northern)	Region 3 (Central)	Region 4 (Alaskan)
Agency Ed. Office:	Agency Ed. Office:	Agency Ed. Office:	Agency Ed. Office:
Chinle Ft. Defiance Western Navajo Fort Apache Hopi Papago Pima	Cheyenne River Crow Creek Ft. Berthold Ft. Totten Lower Brule Pine Ridge Rosebud Standing Rock Turtle Mountain	Choctaw Cherokee Eastern Navajo Shiprock Northern Pueblos Southern Pueblos	Bethel Fairbanks Nome
Area Ed. Office:	Area Ed. Office:	Area Ed. Office:	Area Ed. Office:
Navajo Phoenix Sacramento Portland	Aberdeen Minneapolis Billings	Eastern Muskogee Anadarko Albuquerque	Juneau
		Post Sec School:	
		Haskell IAIA SIPI	
11 line officers	12 line officers	14 line officers	4 line officers
74 schools	49 schools	71 schools	41 schools
38 % students/$	24 % students/$	31 % students/$	7 students/$

DEPARTMENTAL MANUAL

DRAFT

TRANSMITTAL SHEET

PART Part 130 DM	SUBJECT Organization Bureau of Indian Affairs	RELEASE NUMBER
FOR FURTHER INFORMATION, CONTACT Bureau of Indian Affairs		DATE

EXPLANATION OF MATERIAL TRANSMITTED:

This Departmental Manual Release revises 130 DM 1, 2, 6, 7, 8, 9, and 10 to reflect Bureau of Indian Affairs organizational changes in accordance with Title XI, Part B of the Education Amendments of 1978 (Pub. L. 95-561).

Significant changes are as follows:

1. The Office of Indian Education Programs is a line office reporting directly to the Assistant Secretary - Indian Affairs;

2. The Director, Office of Indian Education Programs is a line officer and provides executive direction in the management of Indian Education programs. The Commissioner of Indian Affairs has no line authority over the Bureau's Office of Indian Education Programs;

3. Bureau Area Directors and Bureau Agency Superintendents have no jurisdiction over Office of Indian Education Program functions;

4. Field level programs are legislatively designated as Area Education Offices and Agency Education Offices. Each reports to the Director, Office of Indian Education Programs through one of three assistant directors;

5. An Assistant Director for Area and Post Secondary Education Operations and two Assistant Directors for Agency Education Operations are established.

6. Area Education Offices have no jurisdiction over local schools or over Agency Education Offices and their functions;

7. Local schools report to Agency Education Offices;

8. A Management Information Systems Staff is created and reports to the Director, Office of Indian Educaton Programs;

9. The Commissioner of Indian Affairs provides administrative support services to the Director, Office of Indian Education Programs;

10. The Director, Office of Training and Technical Assistance also provides assistance to the Office of Indian Education Programs;

BEST COPY AVAILABLE

11. Boarding Schools no longer report to Bureau Area Directors, do not qualify as principal field offices and are removed from the Bureau's listing of principal field offices.

DM 130, Chapters 1.1; 2.1; 2.2; 2.3; 6.1 A through G; 7.1; 8.1; 8.1A; 9.1 A through D; 10.1; 10.2; 10.3; 10.5; 10.7; 10.9; 10.10; and 10.11 are appropriately revised.

Secretary of the Interior

FILING INSTRUCTIONS

BEST COPY AVAILABLE

DEPARTMENT OF THE INTERIOR

DEPARTMENTAL MANUAL

Organization Part 130 Bureau of Indian Affairs

Chapter 1 Creation, Objectives, and Functions 130 DM 1.1

1.1 Creation. The Bureau of Indian Affairs was created in the War Department in 1824 and in 1849 was transferred to the Department of the Interior. The Snyder Act of 1921 (42 Stat. 208; 25 U.S.C. 13) provided substantive law for appropriations covering the conduct of activities in the Bureau of Indian Affairs. The scope and character of the authorizations contained in this Act were broadened by the Indian Reorganization Act of 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.); by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450); and by Title XI of the Education Amendments of 1978 (Pub. L. 95-561). The authority of the Commissioner of Indian Affairs and of the Director, Office of Indian Education Programs, as delegated by the Assistant Secretary - Indian Affairs, is set forth in Part 230 of the Departmental Manual. The authority of subordinate officers and employees, as redelegated by the Commissioner and the Director, Office of Indian Education Programs, or as redelegated by others in the Bureau, is set forth in the Bureau of Indian Affairs Manual.

1.2 Objectives. The principal objectives of the Bureau are to actively encourage and train Indian and Alaska Native people to manage their own affairs under a trust relationship with the Federal Government; to facilitate, with maximum involvement of Indian and Alaska Native people, full development of their human and natural resource potentials; to mobilize all public and private aids to the advancement of Indian and Alaska Native people for use by them; and to utilize the skill and capabilities of Indian and Alaska Native people in the direction and management of programs for their benefit.

1.3 Functions. The major functions of the Bureau, through which its objectives are to be achieved, include the following:

A. The Bureau works with Indian and Alaska Native people, other Federal agencies, state and local governments and other interested groups in the development and implementation of effective programs for the advancement of Indian and Alaska Native people.

B. The Bureau, in cooperation with Indian and Alaska Native people, seeks for them adequate educational opportunities in public education systems, assists them in the creation and management of educational systems for their own benefit, or provides from Federal resources the educational systems needed.

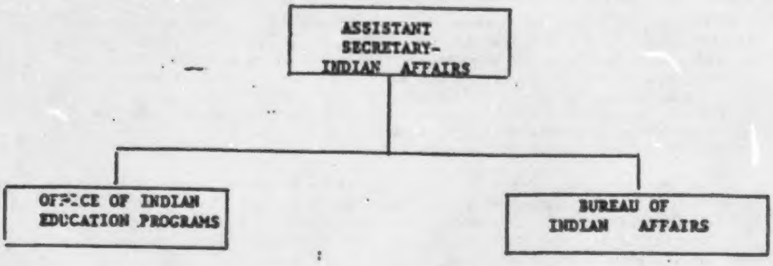
C. The Bureau actively promotes the improvement of the social welfare of Indian and Alaska Native people by working with them to obtain needed social and community development programs and by providing programs of community service as needed and desired by them.

D. The Bureau works with Indian and Alaska Native people in the development and implementation of programs for their economic advancement and for full utilization of their natural resources consistent with the principles of resource conservation.

E. The Bureau acts as trustee for Indian and Alaskan Native lands and monies held in trust by the United States, for the purpose of assisting the Indian and Alaska Native people realize maximum benefits from such resources.

INDIAN AFFAIRS

CHART


ASSISTANT SECRETARY-INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS
BUREAU OF INDIAN AFFAIRS

2.1 Overall Organization. The overall organization of the Bureau of Indian Affairs consists of a headquarters in Washington, D. C., Area Offices located throughout the country, and subordinate field offices within each area. The Commissioner of Indian Affairs is the chief executive officer of the Bureau, with the exception of executive direction of the Office of Indian Education Programs. In the execution of duties related to the day-to-day operation of the Bureau, the Commissioner is assisted by a deputy who shares responsibility for the proper management of the Bureau's activities.

A. The Director, Office of Indian Education Programs, provides executive direction in the management of Indian Education Programs. In the execution of duties related to the day-to-day operation of Indian Education Programs, the Director is assisted by a deputy who shares responsibility for the management of Indian educational activities:

B. Each area office reports to the Commissioner and is under the supervision of an Area Director who also supervises several field locations. Area and subordinate field locations also provide administrative support to the Director, Office of Indian Education Programs.

2.2 Headquarters Organization. The Bureau of Indian Affairs headquarters structure is comprised of two major organizational elements: (1) the Office of the Commissioner and (2) the Office of Indian Education Programs. The Office of the Commissioner includes staff organizational elements, mission-oriented program offices and support offices, described in 130 DM Chapters 3 through 9. The Office of Indian Education Programs consists of staff organization units and program divisions described in 130 DM Chapter 10. The overall function of these headquarters organizational components is to assist the Commissioner and the Director, Office of Indian Education Programs in the exercise of management control over their respective operations within the Bureau. Central Office components: (1) develop Bureauwide policies, programs, budgets, and justifications; (2) develop Bureauwide legislative programs and reports; (3) provide liaison with other Federal agencies and national Indian organizations regarding Indian programs and Bureau activities; (4) monitor and evaluate the performance of the field establishment; (5) participate in periodic and specific management and program reviews of field operations; and (6) advise the Commissioner and the Director, Office of Indian Education Programs on Bureau programs, policy matters, regulations and related matters. Day-to-day operations and program service delivery are the functions of the Bureau's field, rather than central office, organization.

2.3 Office of the Commissioner. The Commissioner of Indian Affairs, under the direction and supervision of the Assistant Secretary - Indian Affairs, is responsible for the direction of the Bureau of Indian Affairs and for providing administrative support to the Director, Office of Indian Education Programs. The Commissioner of Indian Affairs, as chief executive of the Bureau, is responsible for executing the policies established by the

Assistant Secretary - Indian Affairs by developing Bureau policies, regulations, and procedures; and for coordination and liaison with the Office of the Assistant Secretary, the Office of Management and Budget, the Congress, Indian organizations and individuals, and members of the public. The Commissioner is responsible for planning, directing, and controlling Bureauwide activities and performance. The Commissioner of Indian Affairs provides advice and assistance to the Assistant Secretary - Indian Affairs on matters within the purview of the Bureau. The Commissioner is assisted in these functions, particularly in the internal management of the Bureau, by the Deputy Commissioner.

A. The Congressional and Legislative Affairs Staff reviews and coordinates all legislative planning and congressional relations activities of the Bureau. It provides legislative research and staff assistance in planning, developing, and drafting legislation. It reviews and analyzes the legislative needs of the Bureau and tribes, and prepares and reports on legislative proposals affecting Indians, Indian tribes, and Bureau operations.

B. The Correspondence Staff is responsible for operating a correspondence control and monitoring system in accordance with Department and Bureau directives, expediting Bureau responses to correspondence of a priority or sensitive nature, and coordinating multiple-type inquiries as necessary. The staff answers inquiries regarding the status of controlled correspondence, generates call up notices regarding overdue controlled mail, and prepares and distributes a Commissioner's Reading File.

C. The Equal Employment Opportunity Staff, in coordination with the Central and Area Offices, develops plans, procedures, and regulations for carrying out the EEO Program to promote equal opportunity without regard to race, color, religion, sex, or national origin in all organizational units, locations, occupations, and levels of responsibility. It is responsible for monitoring the continuing application of Indian preference in initial hiring, promotions, and transfers. The staff includes full-time EEO officers located in the field who report to and assist the Bureau EEO Officer. The staff is responsible for all special emphasis programs including a Federal Women's Program and a Hispanic Program. It also is responsible for EEO provisions of Title VI of the Civil Rights Act of 1964.

D. The Facilities Engineering Staff, located in Albuquerque, New Mexico, with a liaison office in Washington, D. C., provides staff support to the Commissioner for Bureau programs designed to provide architectural, engineering, construction management, contract services, facilities management, and other technical services related to the construction of new facilities. The staff also coordinates the Bureau's program for major rehabilitation, alterations, improvement and maintenance of existing buildings, utilities, grounds, and other facilities. It provides technical services to tribes on construction and design. The staff also provides design, construction, and technical assistance on interdepartmental agreements and to Indians and Alaska Natives as directed.

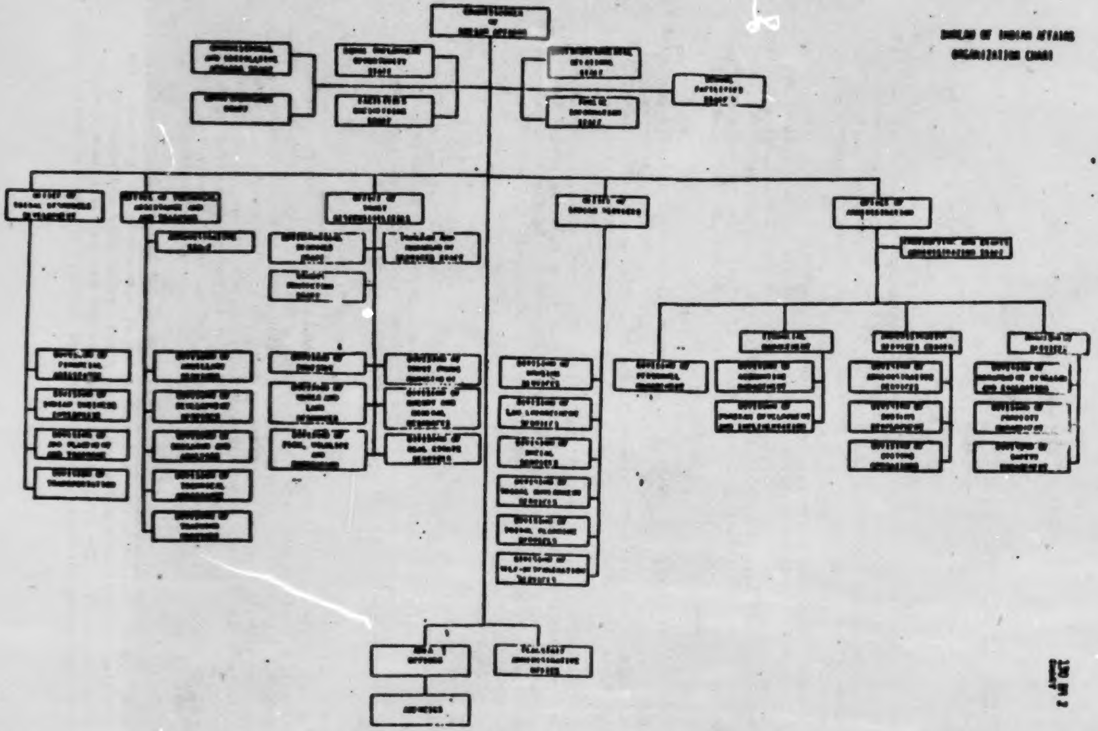
E. The Intergovernmental Relations Staff provides liaison with other Federal agencies at the national and regional council level. It also provides coordination with the national headquarters of organizations of state and local governments. Its primary purpose is to promote active consideration of the needs of Indian people in the administration of public programs. The Intergovernmental Relations Staff identifies and maintains information on Federal financial and technical resources available to Indian people. It serves as the focal point in the Bureau for international Indian affairs. It leads in developing information for the Indian people on the availability of Federal assistance programs, eligibility requirements and the benefits to be received from the programs.

F. The Public Information Staff maintains liaison with the media, the public, and other Federal and State agencies. It prepares speeches and articles for key officials in the Bureau, news releases on major developments, general publications and audio-visual materials in support of the Bureau's mission, and special materials as required to provide closer and more timely communication with Indian groups. It prepares material to be used as correspondence aids in answering repetitive public inquiries on current and historic issues. The Public Information Staff serves as public information consultants to top officials of the Bureau. The office maintains a functional relationship with the Office of Public Affairs, Department of the Interior, and with all public information related activities in the Bureau.

[illegible]

G. The School Facilities Staff, located in Albuquerque, New Mexico, provides staff support to the Commissioner in the entire planning, design, construction, equipping, and evaluation of Bureau, public, and tribally operated contract school facilities. The staff develops and implements a Bureau school construction priority system and establishes the criteria by which construction projects will be ranked. It establishes criteria for design of school space and develops educational specifications. The staff reviews designs and insures compliance with established educational specifications and policies. The staff prepares guidelines for selecting equipment. It provides guidance in training of school personnel in the use of equipment and care of the facility. The staff maintains liaison with the Facilities Engineering Staff and the Office of Indian Education Programs. The staff closely coordinates initiatives, regarding school facilities, with the Office of Indian Education Programs to insure consistency in its actions with overall education goals, policies, and objectives of the Bureau.

BUREAU OF INDIAN AFFAIRS
ORGANIZATION CHART



6.1 The Office of Administration is responsible for providing staff support to the Commissioner of Indian Affairs and administrative support services to the Director of Indian Education Programs in the development and management of Bureau programs designed to provide support services to all parts of the Bureau. These programs include the functions of systems development, automatic data processing, budget, energy conservation, finance and accounting, management research and evaluation, personnel management, procurement, property management, contracting, program development and implementation, and safety management. The office also administers Bureauwide systems for fiscal accounting and disbursements, payroll and personnel records; operates a computer services center; and provides for administrative and housekeeping services for the central office, the Eastern Area, and the Indian Arts and Crafts Board.

6.2 The Administrative Services Center, under the supervision of an Assistant Director, is responsible for developing and implementing policies, guidelines, and standards relating to all phases of management information, automatic data processing systems, and centralized administrative support. It maintains liaison with Department of Interior, other Interior bureaus and Federal and non-Federal activities. It provides centralized information systems planning and development, ADP systems operations and administrative support to central office and Bureauwide programs in the field. It recommends information and ADP systems support budgets, resources allocations, and major equipment acquisitions. The Administrative Services Center is located in Albuquerque, New Mexico.

A. Division of Administrative Services provides administrative support services to Central Office installations located in Albuquerque, New Mexico, and other selected locations and on a Bureauwide basis. Services include budget and fiscal accounting, contracting and procurement, energy conservation, office services, and personnel and property management.

B. Division of Systems Development provides analysis, design, development and implementation support and services to administrative and program operations in improving their processes and procedures to achieve the most effective level of services and adherence to statutes and regulations. It provides leadership in project identification, development of program requirements in conjunction with program managers, design of procedures, processes and training materials and implementation of new requirements. It provides leadership, support, and management in the development and installation of the Bureau Management Information Systems and the operating level concepts for ADP support for administrative and programs operations.

C. Division of Systems Operations provides centralized ADP research, development, implementation and evaluation of Bureauwide ADP systems. The division prepares Bureauwide policies, plans, guidelines and standards relative to ADP. The division provides systems design, data base design and programming services. It maintains and operates a computer center (which organizational performance and recommends improvements. It assists managers in the implementation of approved organization and systems changes, performing follow-up reviews, and monitoring the Bureauwide organization structure. The division conducts scheduled organizational reviews, performs special management studies on request, coordinates audit and investigative reports and responses, and manages Bureauwide assessment projects and other special programs, as directed.

(2) The division is also responsible for the Bureauwide planning, development, design, coordination, and managerial control of the following paperwork management elements: correspondence, directives, delegations of authority, reports and forms, mail, files, records disposition, microfilming, vital records, Federal Register requirements, and administration of the Freedom of Information and Privacy Acts. It is also responsible for providing all paperwork operations, except the Communication Center (mail services), to Central Office entities located in Washington, D. C., the Eastern Area Office, and the Indian Arts and Crafts Board.

B. The Division of Property Management provides staff assistance to the Assistant Director regarding programs for all Bureau owned real and personal property, space, motor vehicle management, and procurement from directed sources. The Division is responsible for: (a) developing, modifying, reviewing, evaluating, and implementing Bureauwide policies and procedures related to management of real and personal property, space, and motor vehicles, and procurement from directed sources; (b) maintaining the Bureau Property Management Regulations, incorporating constantly changing Federal and Departmental policies, regulations, and procedures promulgated by Federal regulatory agencies; and (c) providing Bureau oversight and technical assistance to Area and those offices with operational responsibilities. Performing studies relating to utilization of facilities, disposal systems for excess property and inventory training needs and conducting training in areas, as needed. The division provides operating services in the areas of procurement, property, supply, office and housekeeping services, and the Communication Center (mail services) to Central Office entities located in Washington, D. C., the Eastern Area Office, and the Indian Arts and Crafts Board.

C. The Division of Safety Management develops and maintains a Bureauwide safety program which: (a) insures safe and healthful work locations; (b) provides technical guidance, information and staff resources for the conduct of Area safety programs; (c) conducts research and provides engineering services on Bureau safety and health programs; (d) provides technical assistance to Indian tribes and contractors in the establishment and maintenance of safety and health programs; (e) eliminates hazards which may cause accidents (accident prevention); (f) protects lives and physical well-being of Bureau employees and users of Bureau facilities; (g) promotes greater work efficiency by holding the number of accidents to a minimum; (h) insures lowest possible compensation costs; (i) protects Bureau property; and may include time-sharing support services) and is responsible for the preparation of ADP reports required by administrative and program operations. It evaluates and recommends on programs for the acquisition of computer, telecommunication and peripheral equipment and/or contractural services required to implement the ADP Management Plan.

6.3 The Contracting and Grants Administration Staff provides professional and technical leadership and assistance in Bureauwide contract and grants assistance activities. The staff has authority and responsibility for planning, directing, coordinating, implementing, evaluating, controlling and developing Bureau contract and grant policies, procedures and practices. The staff provides technical assistance to the central office operating officials in determining material and service needs, procurement sources and options; participates in basic contract negotiations, bids, and award procedures; determines appropriate sources for material and service needs; negotiates, formally advertises and/or awards contracts; authorizes contracts or procurement arrangements; administers and monitors contracts; maintains basic contract/procurement records; prepares recurring reports as required; authorizes appropriate payments; issues operating instructions; and evaluates contract performance.

A. It develops and reviews policies, procedures and guidelines, and recommends policy and legislative materials to support Bureau objectives. It monitors past and present performance to achieve goals; compares performance with Federal standards; and reviews Federal standards, judicial and administrative appeal decisions and appropriate legislative statutes for controling Bureau efforts.

B. It reviews and evaluates Bureau procurement and grant assistance operations to ensure equity, effectiveness, efficiency and economy, and recommends appropriate administrative actions. It coordinates Bureau contract and grants activities with Federal, state and private agencies for optimizing tribal government development.

C. It assists Bureau field units and tribal governments in contract and grant proposal preparation, negotiation, administration and closeout phases. It conducts training and career development systems and prepares materials for Bureau and tribal personnel related to contracting and grants. The staff provides testimony to, and interfaces with, the executive and legislative branches in preparing, discussing, and refining policies for headquarters and field office levels. The staff also provides operating contracting services to central office entities located in Washington, D. C., and the Indian Arts and Crafts Board.

6.4 Financial Management, under the supervision of an Assistant Director, is responsible for the development of policies, programs and guidelines for financial management functions; for performance of the functions identified with the budget cycle; the operation of fiscal accounting, compensation, and employee data systems; Bureauwide technical assistance in program evaluation; and provides support services in operating budget and fiscal accounting functions. The Office of the Assistant Director serves as a coordination point and central source for Indian population data and for special statistical analyses.

A. The Division of Accounting Management provides staff assistance to the Assistant Director regarding the Bureau programs designed to provide advice and guidance in areas of accounting, fiscal operations, financial management, accomplishment reporting, centralized payroll, automated personnel records systems, and directs the employee data and compensation, finance and accounting operations located in Albuquerque, New Mexico. The division develops standards, specifications and operating proceures. It develops policies, systems and related procedures to be used throughout the several designated accounting stations of the Bureau.

B. The Division of Program Development and Implementation provides staff assistance to the Assistant Director regarding those functions identified with the budget cycle and program evaluation. In coordination with program directors, the division implements the Bureau's policies and program goals through the budgetary process; develops instructions for use in annual program plans; reviews program requests on the basis of fiscal reasonableness, feasibility and justifiability; reviews proposed tribal comprehensive plans to determine fiscal feasibility for package funding; develops Bureauwide program planning documents; develops budget estimates and justifications; prepares for budget legislative hearings; prepares field planning allowances and tentative allocations. The division performs budget execution functions including continuing resolutions; encoding programs to the finance system; allotting funds, employment ceiling control, comparisons of actual and planned funds and accomplishments and reporting exceptions between planned and actual conditions. This division is responsible for Bureauwide Program Evaluation which includes advising the Commissioner, Area Directors, and Superintendents on the effectiveness of Bureau programs in meeting the needs of Indian clientele; providing the leadership role for program evaluation crossing program and staff lines; providing technical assistance to Program and Area Directors, and coordinating and initiating program evaluation efforts within the Office of Administration. The division also provides operating budget and fiscal accounting functions to central office entities located in Washington, D. C., the Eastern Area Office, and the Indian Arts and Crafts Board.

6.5 Personnel, under the supervision of the Chief Personnel Officer, is responsible for the development, coordination, administration and evaluation of personnel management programs and policies for the entire Bureau.

A. The Chief Personnel Officer also serves as Chief, Division of Personnel Management. The division formulates objectives, policies, and guidelines for Bureau personnel management activities. It provides for orderly alignment of positions for pay administration, position management, and other personnel and management purposes. It develops standards and criteria for securing and retaining qualified employees, and provides guidance to Bureau management on labor-management relations issues and maintains relationships with employee groups and unions recognized by the Bureau on a national basis.

B. The division initiates and administers comprehensive career development plans and programs, including training and promotion. It oversees employee-management relations to assure that working conditions and employee conduct meet work and public service requirements. It engages in studies and analyses to identify bureau manpower and personnel management needs, current and future, and takes action to satisfy those requirements. It conducts personnel program reviews and evaluations on a Bureauwide basis and recommends to management officials methods for improvement. The division maintains liaison with the Office of Personnel Management and the Department on personnel management matters. It provides staff assistance to the personnel management officials in the Bureau in the implementation of the policies developed at the Bureau and Department level.

C. The division also provides operating personnel services for central office organizations located in Washington, D. C., and and other locations in the United States, the Eastern Area Office, and the Indian Arts and Crafts Board.

6.6 Management Services, under the supervision of an Assistant Director, is responsible for the development of policies, programs, and guidelines for the general management functions related to property management, safety management, and administrative procedures. It is responsible for reviewing alleged irregularities within the Bureau's scope of operation.

A. The Division of Management Research and Evaluation provides staff support to the Assistant Director in the development, coordination, administration and evaluation of management practices and policies for the Bureau. The division provides advisory services and technical assistance to the Commissioner, Central Office Directors, Area Directors, and other Bureau officials in management research; organization evaluation; organization analyses; paperwork management; management systems development; management improvement programs; and managerial operating methods and procedures.

(1) The division is responsible for Bureauwide organization analyses, including: organization planning, structural development, and staffing. These responsibilities are carried out in cooperation with Personnel Management and Financial Management. The division reviews proposed organizational changes and provides analytical support for identifying and evaluating alternative organization approaches. It makes impact assessments, evaluates

(j) promotes and insures high standards of physical fitness of workers on all jobs in the Bureau. The division is a staff function of the Bureau that carries out much of its responsibilities by operating through line officers.

(1) It provides staff assistance, coordination, and administration of Departmental and Bureau policies and programs; reviews reports submitted by other government offices relating to Tribal property and takes action, as necessary; reviews architectural and engineering drawings developed by Facilities Engineering or Architectural Engineering, contracts for major construction to insure compliance with Occupational Safety and Health Codes, and National Fire Standards; and recommends condemnation, closing or modification of buildings and equipment which are considered hazardous.

(2) The division administers the Bureau motor vehicle program which includes accident investigation and expediting Tort Claims for the Solicitor's Office. It has final responsibility for drivers' licenses, defensive driver training, and other training necessary to improve individual capability to meet Bureau, state, and Federal requirements. It is responsible for safety in the areas of water transportation and transmission; safety in reservoir and dam areas; safety in handling of radiological materials. It is the technical advisor on safe handling and use of explosives, pest herbicides and toxic substances. It is also technical advisor regarding noise exposure.

(3) It develops and maintains a data base consisting of statistics on accident, injury, fire and property damage. This information is stored in the main computer and is used to develop trends, determine trouble areas, etc., and serves as a base for accident prevention and safety training.

(4) It develops safety training materials for students and teachers in Bureau schools and is responsible for their distribution and use, and subsequent evaluation for effectiveness.

(5) The division is also responsible for processing employee compensation claims and for operating the safety programs in the Central Office and the Field Administrative Office, Albuquerque, New Mexico.

7.1 The Office of Technical Assistance and Training (OTAT), located in Brigham City, Utah, provides staff support to the Commissioner of Indian Affairs and assistance to the Director, Office of Indian Education Programs, in the development, management and operation of technical assistance and training (TA&T) activities for Alaskan Natives and Indian tribes. The office has a responsibility to strengthen and enhance Indian self-determination through planning, developing, and delivering integrated TA&T programs to assist in developing the tribal governmental managerial and administrative capabilities of Indian tribes and/or Alaskan Native groups.

A. The office also assumes a supportive role in providing technical assistance and training which assists Bureau mission programs, including Office of Indian Education Programs, in reaching their objectives. This is accomplished by developing and carrying out TA&T, and services which are responsive to the requests of the Bureau central and field offices.

B. The Director is supported by staff personnel assigned directly to him/her who have responsibility for: (a) consultation with other Federal agencies, local governments, Alaskan Native corporations, tribal governments, national Indian organizations, colleges, universities, and other institutions involved in TA&T and (b) establishing, coordinating, scheduling and maintaining a priority system for TA&T services.

C. The Office of Technical Assistance and Training is headed by a Director reporting to the Commissioner. The Director is supported by five division chiefs and staff personnel.

7.2 The Administrative Staff provides administrative support services to the office. It is responsible for planning, developing, and implementing adminstrative activities for the office in the areas of budget, finance, personnel, procurement, contracting, property and supply, facilities management and safety. It is responsible for analysis and coordination of program budgets and policies for the Office of Technical Assistance and Training. The staff maintains OTAT's portion of the Bureau Manual and the Code of Federal Regulations.

7.3 The Division of Auxiliary Services provides specialized media, graphics, audiovisual services, cartographic design, and reproduction services in support of OTAT programs. It is responsible for production of communication media and instructional devices and aids which enhance learning.

7.4 The Division of Development Services is responsible for the development of program curricula including courses of study, preparation of text and media materials, identification of instructional and visual materials, and appropriate learning aids. The division monitors and evaluates program curricula effectiveness by performance of special studies, surveys, testing and evaluation analyses.

7.5 The Division of Research and Analysis is responsible for conducting research into Alaska Native and Indian tribal governmental needs for local tribal government capacity building, development of strategies for meeting these needs, and the development of broad technical assistance and training objectives. The division collects and disseminates data on current research, evaluates the effectiveness of TA&T programs, identifies program innovations, and recommends modifications to OTAT programs to meet current and future needs. The division performs special studies, as requested by program and field offices, in support of Bureau mission programs.

7.6 The Division of Technical Assistance Services is responsible for designing and delivering an integrated technical assistance program to assist in developing tribal governmental managerial and administrative capabilities of an Alaskan Native group or Indian tribe. The division also provides special technical assistance support upon request from program and field offices for Alaskan Native and Tribal Organizations. The division is responsible for Indian Action Team Programs which are administered by the Indian Technical Assistance Center (ITAC) located in Lakewood, Colorado. The division is also responsible for providing tribal administrative and accounting services in support of tribal requests for technical assistance.

7.7 The Division of Training Services provides on-site and on-campus training programs and services to Alaskan Natives and Indian tribes for individual and tribal government capacity building. The division also provides training for Bureau employees within the objectives, policies, and guidelines required by appropriate Executive Orders, Office of Personnel Management, Department of Interior, and Bureau personnel management directives.

8.1 Field Organization. The Bureau has divided the United States into twelve areas for the purpose of administering its field activities. Each is designated by the name of the city in which the area office is located, except the Navajo Area Office, which is located in Window Rock, Arizona, and the Eastern Area, which is headquartered in Washington, D. C. In addition to the twelve area offices, the Bureau has established the Flagstaff Administrative Office which is organizationally comparable in status to an area office. Subordinate to the area offices are agency offices which provide program service delivery to Indian tribes and Indian people and irrigation project offices.

8.2 Area Offices. Each area office is under the direction of an Area Director who is responsible to the Commissioner for all noneducation-related Bureau activities within the Area. The Area Director is a line officer who is typically assisted by a Deputy Area Director or by one or more Assistant Area Directors who are redelegated line authority. The typical area office includes staff specialists in several or all of those Bureau programs involved in the discharge of the following area responsibilities:

A. Representing the Bureau in its dealings with the Indians, state and local governments, other Federal agencies, and the public;

B. Directing and assisting in the application and implementation of overall policies and programs by operating offices; providing technical advice and review; evaluating performance; and coordinating those features of noneducation-related Bureau area programs which extend beyond the jurisdiction of a single operating office;

C. Recommending to the Central Office revisions of policies, programs, procedures, and regulations; and

D. Performing functions of an administrative and housekeeping nature which can be done most efficiently and economically on an areawide basis. The area offices headquartered at Anadarko, Oklahoma; Minneapolis, Minnesota; and Sacramento, California, receive some administrative support from the Muskogee, Oklahoma; Aberdeen, South Dakota; and Phoenix, Arizona, Area offices, respectively. The Eastern Area Office receives some administrative and program support from the Central Office.

E. Providing administrative support services to Area Education Programs Administrators and Agency Superintendents for Education.

8.3 The Flagstaff Administrative Office, located in Flagstaff, Arizona, is under the direction of a Project Officer who is responsible to the Commissioner of Indian Affairs for the performance of those functions related to the use and management of lands within the former Joint Use

Area and any other lands which may come under the jurisdiction of the office. The Project Officer is a line officer and is delegated the same authority as an Area Director.

A. The responsibility of the office is to carry out the Federal Government's trust responsibility for protecting, developing, and rehabilitating the land within the former Joint Use Area; to approve transactions related to grazing use under the rule of 25 CFR 153; to achieve compliance of the Hopi and Navajo Tribes and their individual members in carrying out the U. S. District Court mandates and the provisions of Pub. L. 93-521; to undertake judicial administration, law enforcement, and crime prevention on matters related to the use and restoration of resources including the protection of U. S. Government personnel, equipment; and property; and to advise the Commissioner on other activities related to the Former Joint Use Area.

B. It also coordinates the efforts of other Federal agencies; state, local, and tribal governments; and private sources in carrying out the functions of the office.

8.4 Agencies. Agencies, the third organizational level of the Bureau, may conduct several or all of the activities of the Bureau on one or more reservations. The Agency Superintendent is responsible for the development and execution of immediate and long-range programs to fit the needs of the people and the reservation(s) under the agency jurisdiction. The Agency Superintendent reports to the Area Director of the area in which the agency is located. Assisting the agency superintendent are area specialists in several or all of the Bureau programs as needed. The agency also provides administrative support to the programs, facilities, and staff which are under the supervision of the Agency Superintendent for Education.

8.5 Flathead, Navajo, San Carlos, and Wapato Irrigation Projects. Each of these major irrigation projects is under the direction of a project engineer or manager who reports directly to the Director of the Area in which the project is located. Their primary purpose is the supply of water to Indian irrigable lands. The projects may also serve non-Indian lands and provide electrical services to the reservation and adjacent areas for project or private use.

Field Locations:

9.1 Aberdeen Area Office, Aberdeen, South Dakota, (Nebraska, North Dakota, South Dakota):

- Nebraska:
  - Winnebago Agency, Winnebago
- North Dakota:
  - Fort Berthold Agency, New Town
  - Fort Totten Agency, Fort Totten
  - Standing Rock Agency, Fort Yates
  - Turtle Mountain Agency, Belcourt
- South Dakota:
  - Cheyenne River Agency, Eagle Butte
  - Crow Creek Agency, Fort Thompson
  - Flandreau Santee Sioux Field Office, Flandreau
  - Lower Brule Agency, Lower Brule
  - Pine Ridge Agency, Pine Ridge
  - Rosebud Agency, Rosebud
  - Sisseton Agency, Sisseton
  - Yankton Agency, Wagner

9.2 Albuquerque Area Office, Albuquerque, New Mexico (Colorado and New Mexico):

- Colorado:
  - Field Employment Assistance Office, Denver
  - Ute Mountain Ute Agency, Towaoc
  - Southern Ute Agency, Ignacio
- New Mexico:
  - Jicarilla Agency, Dulce
  - Laguna Agency, Laguna
  - Mescalero Agency, Mescalero
  - Northern Pueblos Agency, Santa Fe
  - Ramah-Navajo Agency, Ramah
  - Southern Pueblos Agency, Albuquerque
  - Zuni Agency, Pueblo of Zuni, Zuni

9.3 Anadarko Area Office, Anadarko, Oklahoma (Kansas and Western Oklahoma--see Muskogee Area Office for other offices in Oklahoma):

- Kansas:
  - Horton Agency, Horton
- Oklahoma:
  - Anadarko Agency, Anadarko
  - Concho Agency, Concho
  - Oklahoma City Field Employment Assistance Office, Oklahoma City

Pawnee Agency, Pawnee
Shawnee Agency, Shawnee

9.4 Billings Area Office, Billings, Montana (Montana and Wyoming):

Montana:
- Blackfeet Agency, Browning
- Crow Agency, Crow
- Flathead Agency, Ronan
- Flathead Irrigation Project, St. Ignatius
- Fort Belknap Agency, Harlem
- Fort Peck Agency, Poplar
- Northern Cheyenne Agency, Lame Deer
- Rocky Boy's Agency, Box Elder

Wyoming:
- Wind River Agency, Fort Washakie

9.5 Juneau Area Office, Juneau, Alaska (Alaska and the Seattle Liaison Office, Seattle, Washington):

Alaska:
- Anchorage Agency, Anchorage
- Bethel Agency, Bethel
- Fairbanks Agency, Fairbanks
- Nome Agency, Nome
- Southeast Agency, Juneau

Washington:
- Seattle Liaison Office, Seattle

9.6 Minneapolis Area Office, Minneapolis, Minnesota (Illinois, Iowa, Michigan, Minnesota, and Wisconsin):

Michigan:
- Michigan Agency, Sault Ste. Marie

Minnesota:
- Minnesota Agency, Cass Lake
- Red Lake Agency, Red Lake

Wisconsin:
- Great Lakes Agency, Ashland

Illinois:
- Field Employment Assistance Office, Chicago
- Industrial Development Center, Chicago

Iowa:
- Sac and Fox Area Field Office, Tama

9.7 Muskogee Area Office, Muskogee, Oklahoma (Oklahoma and Texas) (Part of Oklahoma--see Anadarko Area Office for other offices in Oklahoma):

- Oklahoma:
  - Ardmore Agency, Ardmore
  - Field Employment Assistance Office, Tulsa
  - Okmulgee Agency, Okmulgee
  - Osage Agency, Pawhuska
  - Miami Agency, Miami
  - Tahlequah Agency, Tahlequah
  - Talihina Agency, Talihina
  - Wewoka Agency, Wewoka
- Texas:
  - Dallas Field Employment Assistance Office, Dallas

9.8 Navajo Area Office, Window Rock, Arizona (Arizona, New Mexico):

- Arizona:
  - Chinle Agency, Chinle
  - Fort Defiance Agency, Fort Defiance
  - Western Navajo Agency, Tuba City
- New Mexico:
  - Eastern Navajo Agency, Crownpoint
  - Navajo Irrigation Project, Farmington
  - Shiprock Agency, Shiprock

9.9 Phoenix Area Office, Phoenix, Arizona (Part of Arizona, Nevada, and Utah).

- Arizona:
  - Colorado River Agency, Parker
  - Fort Apache Agency, White River
  - Fort Yuma Agency, Yuma
  - Hopi Agency, Keams Canyon
  - Papago Agency, Sells
  - Pima Agency, Sacaton
  - Salt River Agency, Scottsdale
  - San Carlos Agency, San Carlos
  - San Carlos Irrigation Project, Coolidge
  - Truxton Canon Agency, Valentine
- Nevada:
  - Eastern Nevada Agency, Elko
  - Western Nevada Agency, Stewart
- Utah:
  - Uintah and Ouray Agency, Fort Duchesne

9.10 Portland Area Office, Portland, Oregon (Idaho, Oregon, and Washington--except Seattle Liaison Office, under Juneau Area Office):

- Idaho:
  - Fort Hall Agency, Fort Hall
  - Northern Idaho Agency, Lapwai
- Oregon:
  - Siletz Agency, Siletz
  - Umatilla Agency, Pendleton
  - Warm Springs Agency, Warm Springs
- Washington:
  - Colville Agency, Nespelem
  - Field Employment Assistance Office, Seattle
  - Olympic Peninsula Agency, Everett
  - Puget Sound Agency, Everett
  - Spokane Agency, Wellpinit
  - Wapato Irrigation Project, Wapato
  - Yakima Agency, Toppenish

9.11 Sacramento Area Office, Sacramento, California

- California:
  - Central California Agency, Sacramento
  - Field Employment Assistance Office, (Oakland/San Francisco), Alameda
  - Field Employment Assistance Office, Los Angeles
  - Hoopa Agency, Hoopa
  - Industrial Development Center, Los Angeles
  - Palm Springs Area Field Office, Palm Springs
  - Southern California Agency, Riverside

9.12 Eastern Area Office, Washington, D.C. (Florida, Mississippi, New York, North Carolina, and Ohio):

- Florida: Miccosukee Tribe of Indians of Flordia, Tamiami Station
  - Seminole Agency, Hollywood
- Mississippi:
  - Choctaw Agency, Philadelphia
- New York:
  - New York Field Office, Syracuse
- North Carolina:
  - Cherokee Agency, Cherokee
- Ohio:
  - Field Employment Assistance Office, Cleveland
- Washington, D.C.:
  - Washington Field Employment Assistance Office

9.13 Flagstaff Administrative Office, Flagstaff, Arizona

10.1 The Director, Office of Indian Education Programs, under the direction and supervision of the Assistant Secretary - Indian Affairs, provides line direction and management of all Bureau of Indian Affairs education functions including policy and procedure formulation; program supervision; and expenditure of Bureau of Indian Affairs education-related funds. The office directs and supervises the operations of all personnel directly and substantially involved with provision of Bureau education services. The office plans, develops, administers, monitors, and evaluates all Indian education program policies, standards, procedures, and feedback systems; administers and/or facilitates programs for Bureau, public and tribally controlled schools serving Indian students; and administers a computerized management information service. The Director of the Office of Indian Education Programs exercises line authority over: (i) area education offices which, in some cases, also supervise off-reservation boarding schools and peripheral dormitories; (ii) agency education offices supervising Bureau operated schools and dormitories; and (iii) Bureau post secondary institutions: Haskell Indian Junior College, Institute of American Indian Arts, and Southwestern Indian Polytechnic Institute. The office serves as an advocate for Indian education within the Bureau and with the Congress, the Department, other Federal agencies, state, county and local governments, the Indian people and the public.

A. The Administrative Support Staff provides staff assistance to the Director by maintaining liaison with the Office of Administration regarding organizational, procedural, financial, contractual, personnel, procurement and property management matters. It is responsible for providing coordination of all administrative services to and within the Office of Indian Education Programs headquarters; technical advice on internal administrative actions; development and maintenance of internal administrative files; liaison between the Office of Indian Education Programs and the school facilities staff; accurate and complete reports to Congress and the Indian people regarding utilization of resources, technical assistance to area and agency education personnel, and audits of student count records.

B. The Planning and Program Development Staff provides staff assistance to the Director by developing short- and long-range plans, costs and procedures for Bureau educational programs, formulating budgets, and by evaluating, coordinating and setting standards for education programs. In coordination with the divisions within the Office of Indian Education Programs, the staff researches and develops new educational policies and prepares and/or edits major Bureau education publications, speeches, reports, rules, regulations and program guidelines. The staff collects, analyzes, and disseminates data and information; reviews, analyzes, and drafts proposed legislation; provides recommendations concerning legislative needs and coordinates with the Bureau Congressional and Legislative Affairs Staff. The staff conducts Bureau educational research and develops standards and criteria for measuring the effectiveness of the Bureau education program. This staff is responsible for informing the Director of new and innovative education techniques, making recommendations for problem solution and program improvements, and for providing technical assistance to area and agency education personnel through the appropriate assistant director. In coordination with other divisions, it reviews, monitors and evaluates elementary, secondary and post secondary programs, recommending changes to the Director.

C. The Management Information Systems Staff provides staff assistance to the Director by developing education-related MIS systems, including hardware analyses and software specifications; field test coordination; systems cost benefit analysis; development of MIS regulations; and systems interface. Internal MIS operations involve basic operations and maintenance; hardware analysis and procurement recommendations; monitoring compliance activities; staff training; preparation of data for reports; and systems evaluation and modification. The MIS staff is also responsible to the Director for technical assistance and coordination of MIS activities at area and agency levels through the appropriate assistant director to ensure compliance with systems requirements.

10.2 The Division of Elementary and Secondary Education provides staff assistance to the Director in the development of policy and plans, guidelines, curricula, and standards for early childhood, elementary and secondary education programs in the Bureau and contract schools. It coordinates monitoring and evaluation activities for programs at the elementary and secondary level through the appropriate assistant director. The division has responsibility for administering, monitoring, and evaluating legislatively mandated programs and maintains liaison with other Federal education agencies and counterpart professional organizations to provide the Director with recommendation and advice in effecting improvement in and updating of these program areas. The division recommends and provides advice relating to proposed legislation affecting Indian education programs and provides technical assistance to area and agency education personnel through the appropriate assistant director. The division coordinates its initiatives with other divisions and staff offices within the Office of Indian Education Programs to ensure consistency and uniformity of direction, objectives, and policies.

10.3 The Division of Exceptional Education provides staff assistance to the Director in the development of policy, plans, guidelines, curricula, and standards to secure equal education services for all exceptional Indian children, including Bureau placed Indian preschoolers attending state education institutions and Bureau and tribally operated schools. The division has responsibility for monitoring and evaluating the implementation of legislatively mandated programs which serve the exceptional Indian child. The division coordinates its initiatives with other Office of Indian Education Programs division and staff offices to ensure consistency and uniformity of direction, policies, and objectives. It maintains liaison with other Federal education agencies and counterpart professional organizations to provide the Director with recommendation and advice in effecting improvement in and updating of programs for the education of exceptional children. The division provides technical assistance to area and agency education personnel through the appropriate assistant director.

(1) Area Education Offices. Each area education office is under the direction of an Area Education Program Administrator who is a line officer responsible to the Assistant Director for Area and Post Secondary Education Operations for the operation of education programs. An area education office typically includes several of the following education programs: (i) Public School Assistance (JOM), (ii) Post Secondary Education Programs, (iii) Peripheral Dormitories, (iv) Off-Reservation Boarding Schools, (v) Federal Title Programs, (vi) all education programs within a Bureau agency which has no Bureau operated schools, and (vii) Management Information Support Systems. Area education office functions include:

(a) Representing the Bureau's Office of Indian Education Programs in its dealings with Indians, state governments, other Federal agencies, and the public;

(b) Directing and assisting in the application and implementation of overall policies and programs; providing technical assistance; evaluating performance; and coordinating those features of programs extending beyond the jurisdiction of a single agency;

(c) Recommending to the Director revision of policies, procedures and regulations;

(d) Coordinating administrative support services with Bureau area administrative offices on matters under their jurisdiction;

(e) Directing those positions deemed by the Director and the Commissioner of Indian Affairs as "directly and substantially" involved in education and assigned to the Area Education Program Administrators' office by the Director; and

(f) Coordinating, monitoring, and as appropriate, certifying the validity of Management Information System data collected by those local schools which are under the direction of the area education office.

(2) Post Secondary Schools. The Post Secondary School Presidents are responsible to the Assistant Director for Area and Post Secondary Education Operations for planning, directing, and operating Haskell Indian Junior College, the Institute of American Indian Arts, and the Southwestern Indian Polytechnic Institute.

(a) Haskell Indian Junior College, located at Lawrence, Kansas, provides a comprehensive junior college program consisting of vocational, technical, business, Indian studies, nursing, and general education programs. The college also serves the Indian community by developing and conducting extension and outreach programs, educational materials, workshops and seminars, and consultative and research services.

(b) The Institute of American Indian Arts (IAIA), located at Santa Fe, New Mexico, serves the Native American community as a national arts and cultural institution of higher education. IAIA programs include: (i) instructional programs leading to an AFA degree, (ii) technical assistance and training services involving on-campus and outreach programs in education, (iii) cooperative programs involving national consortium relationships, and (iv) cultural studies and research and evaluation relating to utilization of the arts as an educational concept and methodology.

(c) Southwestern Indian Polytechnic Institute (SIPI), located at Albuquerque, New Mexico, provides vocational/technical education in those occupations which have a high employment potential. SIPI also offers its Indian students on-the-job training programs, career development, and job placement services.

B. Agency Education Operations, under the direction and supervision of two Assistant Directors, is responsible to the Director for all agency education program activities (excluding off-reservation boarding schools and peripheral dormitories), within two designated geographical jurisdictions: (i) South and West Agency Education Operations, encompassing the Albuquerque, Navajo and Phoenix areas; and (ii) North and East Agency Education Operations, encompassing the Aberdeen, Eastern and Juneau areas. It is also administratively responsible for supervisors of local schools. Agency Education Operations provides policy and procedure formulation, program supervision, budget execution oversight, and technical assistance. It plans, develops, administers, monitors and evaluates all Agency Education Office program policies, standards, procedures and feedback systems.

(1) Agency Education Offices. Each agency education office is under the direction of an Agency Superintendent for Education who is a line officer responsible to the Assistant Director for Agency Education Operations for the operation of education programs. The typical agency education office includes several of the following education programs: (i) Elementary and Secondary Education, (ii) Early Childhood Education, (iii) Exceptional Education, (iv) Student Support Services, (v) Federal Title Programs, (vi) Peripheral Dormitories, (vii) Post Secondary Education, and (viii) Public School Assistance. Agency education offices functions include:

(a) Monitoring and evaluating agency education programs in consultation with agency school boards;

(b) Representing the Bureau's Office of Indian Education Programs in its dealings with Indians, state and local governments, other Federal agencies, and the public;

(c) Directing and assisting in the application and implementation of overall policies and programs, providing technical assistance, evaluating performance, and coordinating those features of programs extending beyond the jurisdiction of a single school within the agency;

(d) Recommending to the Director revision of policies, programs, procedures and regulations;

(e) Coordinating administrative support services with Bureau area and agency administrative offices on matters under their jurisdiction;

(f) Directing those agency positions deemed by the Director and the Commissioner of Indian Affairs as "directly and substantially" involved in education and assigned to the Agency Superintendent for Education by the Director, Office of Indian Education Programs; and

(g) Coordinating, monitoring, and as appropriate, certifying validity of Management Information System data collected by those local schools which are under the direction of agency education offices.

(2) Local Schools. Each local school is under the direction of a school supervisor who is administratively responsible to the Agency Superintendent for Education or, in the case of off-reservation boarding schools and some peripheral dormitories, to the Area Education Programs Administrator. Local school programs build upon student cultural and linguistic backgrounds and include some or all of the following:

(a) Instructional Services -- Activities which are associated with providing learning experiences for [illegible] academic programs including the various Federal Title Programs;

(b) Student Resident Services -- Activities concerned with providing living accommodations for students in facilities owned and/or operated by the school;

(c) Health Services -- Activities concerned with providing appropriate health care and health education for students;

(d) Pupil Transportation Services -- Activities concerned with the conveyance of pupils to and from school and/or to and from activities provided by the school;

(e) Food Services -- Activities concerned with providing food to pupils in a school, including preparation and servicing of regular and incidental meals in connection with school activities;

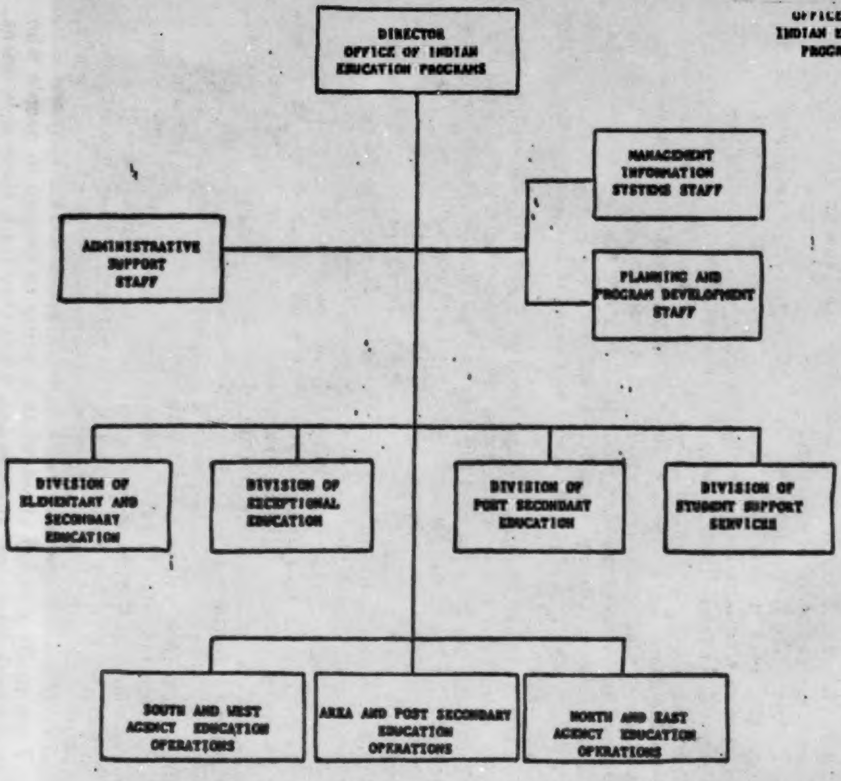
(f) Student Support Services -- Activities including but not limited to: Counseling; Testing; Student Activities; Psychological Services; School Social Work Services; Recreation; various student organizations, Student Government, and Student Rights and Responsibilities; and

(g) Interscholastic Programs -- Activities involving student participation among schools.

BEST COPY AVA E

BEST COPY AVAILABLE

OFFICE OF INDIAN EDUCATION PROGRAMS


DIRECTOR OFFICE OF INDIAN EDUCATION PROGRAMS
MANAGEMENT INFORMATION SYSTEMS STAFF
ADMINISTRATIVE SUPPORT STAFF
PLANNING AND PROGRAM DEVELOPMENT STAFF
DIVISION OF ELEMENTARY AND SECONDARY EDUCATION
DIVISION OF EXCEPTIONAL EDUCATION
DIVISION OF POST SECONDARY EDUCATION
DIVISION OF STUDENT SUPPORT SERVICES
SOUTH AND WEST AGENCY EDUCATION OPERATIONS
AREA AND POST SECONDARY EDUCATION OPERATIONS
NORTH AND EAST AGENCY EDUCATION OPERATIONS

CHART

Senator **Melcher.** Is anyone else at the table going to make a statement?

Mr. **Pierce.** Yes. They have brief statements.

Senator **Melcher.** Please proceed.

STATEMENT OF RICHARD MARTIN, MEMBER, LOCAL 238, NFFE, STEWART INDIAN SCHOOL

Mr. **Martin.** I am Richard Martin of the Stewart Indian School. I teach instrumental music there.

I would like to comment on the first page of the testimony of the secretary, on line 9. It talks about earthquakes in 90 years. That was not meant to mislead anyone into thinking that the buildings are 90 years old. The buildings are about 45 years old.

In the third paragraph down, which discusses the impact upon students' lives. I am closely associated with the students. I have talked with them many times concerning their worries about what is taking place. One reason that they come to Stewart in the first place—I also serve on the acceptance committee of students—is that they have failed in public school. They have failed in other BIA schools of our sister organizations.

They feel that they have more security there in the evening. They have a halfway house which is helping those students who have difficulty making it again, and the dropout rate has been very low at our school as a result of this particular type of program.

We also offer specific programs which some of the other schools do not and which you might find interesting: Instrumental music is one; football is another; and boxing is another. Heavy equipment operation on a ranch which has several hundred head of cattle is another form of teaching that the students do not receive in other places.

I would also like to point out that students whom we have had there in the past are still on record with us and their records will not follow them if this fiasco continues. What will happen is that when the time comes for school, they will not have them. We still have the records. No records have even been transferred anywhere. I do not know how that will be handled, since there has been no planning.

I would also like to refer to the second page where it refers to the effect upon employees at Stewart should the school be phased out. In Stewart we are part of Carson City. What will happen is that people who have been living there for a number of years have bought homes, and there is no longer any real estate market in Carson City.

I am really worried about what is going to happen to people who bought back 10, 15, or 20 years ago, when they made their investment in the civil service. I am really worried about what will happen to their futures.

I thank you for the opportunity to appear here and to have my testimony part of the record. If you care to ask me any questions, I will be happy to answer them.

Senator **Melcher.** Thank you, Mr. Martin.

I think we heard earlier testimony today complimenting the music department at Stewart. I want to share in that compliment.

Without objection, your written testimony will be included in the record at this point.

[The prepared statement of Richard Martin follows:]

Prepared Statement of Richard Martin, Member, Local 238, National Federation of Federal Employees

Mr. Chairman and Other Members of the Committee: I am pleased to present to you some information concerning the impact upon students, staff, and staff's family regarding the pending closure of Stewart Indian Boarding School.

As you know, without students, there can be no school. Our students come to Stewart because they want to be here. The air is clean and pure. The climate is pleasant. We are a little rural community two and one-half miles south of Carson City, Nevada—the nation's smallest capital. The whole setting is like a country town. The campus is green with many shade trees, and the rock buildings are comfortable in which to live. No air conditioning is needed and there has been no MAJOR damage from earthquakes in 90 years. No one has ever been hurt or injured in any way despite the fact we are said to be "in an earthquake zone."

When our students filled out questionnaires about their preference of other schools if Stewart closed, many said they would not attend school at all. Those who come here because they failed to succeed in public school have no desire to try public school again. Those who came here from other boarding schools where they might not have adjusted perfectly said they preferred Stewart because of our disciplinary system gives them a second or third chance. This year we had an adjustment dorm which was a kind of half-way house for those who might otherwise have been expelled for their behavior. Several stayed and continued their education.

The impact upon staff has been simply awful. Without a hint of warning, Good Friday, April 4, 1980, became Black Friday. Those who could have, found other jobs and resigned. For the rest of us, it has been "The Long Hot Summer" of waiting and wondering what to do. Furloughed employees have been unemployed for several weeks now. Applying for and getting unemployment compensation has not been easy. For those who are still on the payroll, it has not been easy either. The uncertainty of our jobs has already had a drastic effect on our creditability to obtain banks loans for assistance. A decision has to be made whether to seek other employment or sweat it out. With high interest rates it is getting more difficult to sell property. Those who are transferred at this time are not able to sell their homes. Many of the employees are buying homes in Carson City. They are also buying other things, and with unemployment pending, the pressure grows greater day by day about what to do. If transferred, working couples may not receive the benefits of job placement at the same job site which would not permit them to remain together as a family. If a change is made and the school does remain open, it will also be difficult since the morale of the employees is at a low ebb. The families of these employees will also have to make changes in their life plans, including the place where they will attend school, and ever so many things.

If the school could remain open one more year, many of these problems could be solved or alleviated.

It is the consensus of the staff of Stewart Indian Boarding School that at least we should have been warned about a possible closure much earlier in the year. We also believe many of the figures and reports used to justify closure are in error, and as human beings, we feel that we should have at least a reprieve if not a second chance to prove that Stewart Indian Boarding School serves a worthwhile purpose which cannot be transferred to any other place.

Senator Melcher. Next is Mr. Billy Gibson of the Choctaw agency.

STATEMENT OF BILLY J. GIBSON, PRESIDENT, LOCAL 452, NFFE, CHOCTAW AGENCY

Mr. Gibson. Thank you, Mr. Chairman. My name is B. J. Gibson from Philadelphia, Miss., speaking for the Philadelphia Choctaws.

With all due respect to you and your constituents, sir, we bring before you our feelings along with those of our fellow constituents and coworkers employed by the Federal Government regarding the impact of Public Law 95–561 and its effect on their lives.

The congressional intent set forth is to provide quality education for Indian children. I am afraid there has been an oversight in recognizing the fact that quality education comes only through quality educators. The teacher is there to see that the mission and objective are met and accomplished.

As a furloughed employee, I feel I am in a position to provide this committee with firsthand information regarding the impact and implementation of Public Law 95–561.

I, along with 95 other Indian educators, are all furloughed employees within our unit. All except two were furloughed beginning May 30 for a period of 10 weeks. Five pay periods is a long time to try to make ends meet without a paycheck.

In addition, to make the situation worse, we, as Federal employees, are not eligible to draw unemployment compensation. I have personally found the going to be very difficult since being furloughed.

In addition to the 96 furloughed employees, 13 "not to exceed people" were terminated about the same time we were furloughed. I just learned this week that some of those people received their first unemployment checks last week. I make note that one of those teachers is still waiting, 7 weeks later, to receive pay from the agency for her accrued annual leave of 42 hours. This is quite a long time.

I have been a civil service employee for 9 years. Within those 9 years I have never been furloughed for more than two pay periods at any one time. During that length of time I just managed to scrape by cutting corners, doing without, and picking up odd jobs.

Today, with the vast change in the economic condition of this country, it is a whole new ballgame. When you consider the escalating rate of inflation and soaring unemployment, 10 weeks without either a paycheck or unemployment benefit makes it all but impossible to cope, both financially and mentally.

It certainly falls way short of the American dream.

I want you to know that it is not just me I am speaking about. I am greatly concerned for my family and 95 other families who make up a part of this great Nation.

I realize there are those who can survive, but I also know the majority are fighting the same hardships that I am. Those employees were concerned enough about the future to send Mr. McGilbra and myself here today.

We are truly concerned about the future and what it holds for us and our families. To what extent are we to feel the burden of congressional budget cuts? We are in no way opposed to fighting the exorbitant rate of inflation and trimming the budget, but how do we mold this matter into our future lifestyle? Must we, too, seek out welfare or food stamps in order to feed our families?

We were hired to provide quality education to Indian children. Some of us have been teaching for as many as 25 years. Needless to say, just as a blue print is an absolute necessity in constructing a building, planning is one of the most important ingredients in providing that quality.

How and when do we plan if we are furloughed 2 days after school is out and return to work the same day the student enrolls? Unfortunately, under these circumstances we cannot—a strike against quality education which the Indian students do not deserve.

Not only do we face these circumstances, but we are continually reminded that our jobs will soon be contracted out. Along this same line are the many and various congressional issues now confronting the already downtrodden Federal employee.

I am afraid the teachers at our particular school and probably many others throughout the Nation no longer have that eagerness, willingness, and vitality to develop and implement a quality learning system and environment. Who knows what additional burdens will be placed upon us with time? I hope this committee considers the adverse impact of the issues I have mentioned.

In conclusion, we have made several suggestions to our agency officials, hoping to divert or do away with this furlough period. We have suggested that the employees leave work at 3 p.m. instead of 4. This 1 hour would amount to 3½ pay periods for 7 weeks during the course of a year. We would be paid for a 35-hour workweek instead of 40.

This would allow the teachers to work all year or to be furloughed only one pay period, as set forth by Federal regulations, and it would greatly reduce the budget. We do not even have an opportunity to use our accrued annual leave any more.

Mr. Chairman, I urge you and your committee to give additional consideration to not only formula funding but the many other issues now facing the Federal employee.

Thank you, sir.

Senator MELCHER. I want to ask a question here. What percentage of eligible BIA educators have elected, under paragraph 1131.02, to come under the provisions of 1131?

Mr. PEIRCE. Mr. Chairman, I do not think we have any figures on that right now. Based on what we are getting back from our local schools, we do not see any significant numbers converting over. I think, in the three schools we have represented here there are none.

Senator MELCHER. Then it did not attract anyone as far as you know?

Mr. PEIRCE. That is right.

Senator MELCHER. Please proceed.

STATEMENT OF JAMES McGILBRA, MEMBER, LOCAL 452, NFFE, CHOCTAW AGENCY

Mr. McGILBRA. Mr. Chairman, I am James McGilbra, also of the Mississippi Choctaw Agency. I was sent here by concerned Mississippi Choctaw educators. I speak for some 95 permanent-position employees who are currently under a 30-day RIF notice to abolish all permanent full-time positions and convert them to furlough positions.

The only exception to this is the superintendent of education of our agency and his staff. We have been told by the agency as well, that the conversion employees will be unemployed during next summer's months.

Most of these teachers have from 12 to 32 years of experience. The majority of them have 15 or more years of experience teaching Choctaw youth. Never during these years have they experienced furlough.

In the years since I have known the system—some 10 years—we have always had summer school programs. The community has asked that we have summer school programs.

We are the people, we feel, who must cause quality education or attempt to cause quality education. We have lived through lots of hardships with the policies of BIA. Morale is very low and a lot of it has to do with the uncertainty of our situation. We have lived through years and years of uncertainty.

Nevertheless, these people of whom we speak were hand picked in our area. They were the best educators that could be found in public school.

The reason for this was, at the time, the certainty of their employment. They do not feel that it is fair that now their careers, that are so far down the line—they do not feel it is fair that they are now told "You will not know if you will be employed in the summer." It is too late for many of these people to start a new career. The instability is a very critical thing here.

We also find that the small schools that have been mentioned by other witnesses are a factor with our schools. The student-teacher ratio does not always justify the money by formula funding, even though the small student-teacher ratio has been requested by the people of the communities.

I have been told—after questioning one of the principals—the principal freely told us that he had a wonderful staff. He shared this experience with us. He was pleased with his staff, but they were just too expensive. He could not afford them.

Senator **Melcher**. I am going to have to interrupt you now. We will have a short recess. Senator Hatfield will be able to come to conclude the hearings. I will have to leave now.

Please remain for just a few moments right where you are, because I think Senator Hatfield will be here in about 5 or 10 minutes.

The committee is in recess.

[Recess taken.]

Senator **Hatfield** [acting chairman]. The hearing will come to order.

Mr. Peirce, I understand that you have just about completed your panel. Is that correct?

Mr. **Peirce**. That is correct, Mr. Chairman. We only have a little bit to go. We were in the latter part of Mr. McGilbra's statement.

Senator **Hatfield**. If you will, please summarize your comments. Is it Mr. Bernhardt?

Mr. **McGilbra**. Mr. McGilbra.

In conclusion, Mr. Chairman, the situations that we mentioned earlier have been very disruptive of the educational process. We believe that special consideration should be made in formula funding to account for the type of teachers a school has on its staff, their experience, and qualifications to avoid situations such as we mentioned earlier.

That is the conclusion of my statement, Mr. Chairman.

Senator **Hatfield**. Thank you. Without objection, your written statement will be included in the record at this point.

[The prepared statement of James McGilbra follows:]

Prepared Statement of James McGilbra, Chief Steward, Local 452, National Federation of Federal Employees

PURPOSE

To describe the negative impact of employee conversions to subject-to-furlough status on Indian education.

MISSION

To provide the individual learning differences of Choctaw students. This is a year-round job involving not only instruction, but planning, materials development, and evaluation.

IMPACT

If we are converted to furlough because of budget limitations under the current formula, we will not be able to fully carry out our mission. Furlough appointments will mean less money, time, and manpower needed to carry out the mission. The result will be a lowering of the standard of service provided to the Indian people.

The overall enrollment at our schools has increased each year over the past three years. Despite this fact, 97 educators of the Mississippi Choctaw Agency have been placed on the longest period of unemployment furlough ever recorded at this agency. Most of these people, because of their type of appointment, have not been able to receive unemployment compensation due to state regulations.

Another 95 employees with permanent positions in education have been placed under a reduction in force notice. The result will be the conversion of all educators to furlough appointments, and will cause these people to become unemployed during the summer months.

Most of these permanent employees have ten or more years of teaching experience and have their Master Degrees and above in their teaching fields. Through the years they have educated many Choctaw youth, and have never had to be placed on furlough. These employees will be the ones to suffer, rather than the people who have been ineffective in managing the budget. Some administrators have run up to 217 percent spending in transportation. Other principals have told us the records from BIA that show the status of the budget are received so late by them that they are of little help.

These educators do not think it is fair for Congress to proclaim, through the stated intent of "formula funding," that our educational mission will be to provide quality individual educational programs centered around the student, and yet the impact of formula funding on our school programs contradicts this stated intent. From questioning our school principals we have learned that because of the budget limitations of formula funding, they have been forced to cut back on staffing and programs. This cutback in programs will cause us to be below our state and Southern Association standards. The hard work done in the summers to achieve this accreditation will be for naught. This same staff has been working on the on-going process of developing, planning, and evaluating quality educational programs especially designed for our culturally deprived Choctaw youth.

The majority of our successful educational program improvements for bilingual students come from our teachers who have a unique relationship with the Choctaw Community after many years of experience with students, their families, and their community. These improvements are conceived and developed during the summer months by teachers who do not have classes to be taught. Other teachers are involved in summer school instruction.

Formula funding has also caused cutbacks in supplies, materials, educational trips and athletic events which have always provided special experiences our students would not receive otherwise.

The length of the furlough and the threat of furlough for all employees has drastically reduced staff morale. The uncertainty of the situation causes the program to suffer, and in turn the students are adversely affected. This condition has made it almost impossible to provide the quality education these Indian children deserve. Employees have suffered loss of income and a lowered standard of living for their families. Their careers have been destroyed after years of service, and it is now too late to start new ones.

Senator HATFIELD. Mr. Peirce, does that conclude your panel?

Mr. PEIRCE. We have one more brief summary, Mr. Chairman, from Dr. Beavers from Fort Sill Indian School.

Senator HATFIELD. Thank you.

STATEMENT OF TEDD BEAVERS, PRESIDENT, LOCAL 1883, NFFE, FORT SILL INDIAN SCHOOL

Mr. BEAVERS. Thank you, Mr. Chairman. My name is Tedd Beavers of the Fort Sill Indian School.

I feel somewhat like our students do now when they come to us. They have been kicked out of public schools and out of other Indian schools. I am the last on this panel and I think I feel somewhat the frustration that they go through.

I had volumes prepared and I have been told from hour to hour to cut, cut, cut, so I will cut it to as brief a statement as I possibly can, sir.

Senator HATFIELD. We will take your entire statement as part of the record, but if you would summarize, that would be very helpful.

Mr. BEAVERS. Thank you. I appreciate it.

I also appreciate this opportunity to present our views on behalf of the Fort Sill Indian School in opposition to the proposed BIA closure of the school and the consolidation of the BIA off-reservation boarding schools.

A careful look at the boarding school student will reveal that he is often from a broken home, learning disabled, or orphaned. Among our people we have great concern for one another and for education and for our land. Many times these students are deserted by both parents. They have needs that are not met by the schools or at home.

Compared with the Riverside School at Anadarko, some 40 miles north of us, at Lawton, the Fort Sill Artillery School, they do not have the housing facilities to accommodate Fort Sill Indian students. Their maximum load is 298 students in their facilities, and their housing consists of poor, rundown cottages which were condemned and are now being refurbished to take on our Fort Sill Indian School students.

Let me point out to you that Riverside enrolled 318 students in 1979. Fort Sill enrolled 239. This would make 557 students if all of our students went to Riverside, and they can only accommodate 298. We just cannot understand how this can be manipulated.

Unlike Riverside, also, Fort Sill has the Great Plains Vo-Tech School for study of electronics, diesel mechanics, nursing, cosmetology, and many professional fields. Lawton also has the Cameron University just on the other side of Fort Sill Indian School.

It has a great reputation for an agricultural and mechanical school. We have one of the finest libraries downtown, which is 9 blocks from our school, in southwestern Oklahoma. We have the Fort Sill Military Base where many of our students do work in the summertime.

The Fort Sill Base also has a psychological clinic and testing center for some of our undisciplined and slow-learning students.

There is a complete Indian health clinic just 1 block from our school at Fort Sill. We have a special program for alcoholism and drug abuse, and we have an interstate artery between Oklahoma City and Wichita Falls with a 4-lane highway just 4 blocks off.

The fact is that our enrollment has been hurt by the Bureau over the last 2 years, specifically, by Mr. Rick Lavis' reports in 1978 and of March 1980, but we are not worried about getting our students back if we could be assured in some way that Fort Sill was to open again.

Many of these students will not go to school at all. We still have their total preenrollment. We have their names and addresses so that we can contact them immediately if we can get the proper funding.

At the present time, however, our tentative formula funding budget for the fiscal year of 1981 is $691,000, which is absolutely too small to take care of the needs of 200 students. This must account for their food, their clothing, their shelter, their academic supplies. This allows about $5,046 per child. It just cannot be done.

The best we can manage to feed, house, and manage our children adequately, allowing for the inflationary costs, is with $6,500 apiece. We need, then, the budget which was originally proposed of $981,000, which is sufficient for the basic needs of our students.

Let it be pointed out that in the Anadarko-Muskogee area Fort Sill is the least expensive, per capita school in the State of Oklahoma, as is Stewart School in the Phoenix area.

Mr. Chairman, and members of the select committee, we need your vote. We need your support. We ask you to help us overcome this obstacle. Above all, our children need your help.

We thank you.

Senator HATFIELD. Thank you very much.

Without objection, your full statement will be included in the record at this point.

[The prepared statement of Tedd Beavers follows:]

PREPARED STATEMENT OF DR. TEDD BEAVERS, PRESIDENT, LOCAL 1883, NATIONAL FEDERATION OF FEDERAL EMPLOYEES

Mr. Chairman and Members of the Select Committee on Indian Affairs, I appreciate this opportunity to present our views on behalf of the Fort Sill Indian School in opposition to the proposed BIA closure of the school and the consolidation of the BIA off-reservation boarding schools.

Maybe some background information might help us to understand what has brought about the BIA school closures. We need to go back to 1970–72 at which time the BIA believed that according to the Reservation Boarding School Review (ORBS) these schools were too expensive. Now we must remember that FSIS was established in 1881 to serve as a reservation elementary school. Gradually it became a boarding school with the mission to educate Indian youth, and it has remained in existence since that time for the purpose of educating Indian students, ninth through the twelfth grades. Being caught up in this changing role caused much dilemma for the students, parents, and the Bureau. Such rapid changes in our society, with the constantly increasing monetary demands in the field of education, have long concerned the taxpayer and Congress. Because Congress has never, previous to this time, denied its responsibility toward Indian education, we feel compelled to represent to this committee our options for keeping the Fort Sill Indian School functional.

A careful look at the boarding school student will reveal that he is often from a broken home, learning disabled, or orphaned. Occasionally, he is deserted by both parents. These special needs are not met either at home or in public schools.

The ORBS study apparently was taken by the BIA in order to manipulate a justifiable means for closing these schools. Supposedly, no one in the Interior Department studied the ORBS recommendations.

The closure of FSIS along with Chilocco and Seneca seems so ill-conceived and poorly planned that the transfer of so many students and staff cannot be accomplished within Mr. Carter's time span. Just a 1-year extension will not be satisfactory for our school—that would be only a token gesture. In order to remove anxiety of staff and students, we are asking for a five-year period in which to prove ourselves, to meet your standards. We welcome your annual evaluation and inspection. We are dealing with the future and lives and attitudes of some 212 students here at Fort Sill each year. In the proposed consolidation, no consideration seems to have gone into defining administrative priorities and formulating a budget responsive to the social, economic, educational, and health needs of our students. The Riverside school in Anadarko, some forty miles north, does not have the housing facilities to accommodate FSIS students. Their maximum load is 298 and they are housed in poor, run-down cottages which were condemned and are now being refurbished to take our FSIS students. Let me point out to you that Riverside enrolled 318 students in 1979. Fort Sill enrolled 239. This would make 557 students that Riverside must take in and house when its full load is only 298.

Let me also report to you that Mr. Rick Lavis, Deputy Assistant Secretary, Bureau of Indian Affairs, in 1978 when he was considering FSIS closure did not do the morale of the students nor staff any good. All that year the students kept asking if I thought the school would be closed. There was so much anxiety among students, dormitory aids, academic staff, and plant management that proper work could not be accomplished.

Unlike Riverside, Fort Sill has the Great Plains Vo-tech School for the study of electronics, diesel mechanics, nursing, cosmetology, and secretarial training. Lawton also has Cameron University which enjoys a reputation as an agricultural and mechanical institution. Lawton's public library is the finest in southwestern Oklahoma. The Fort Sill military base, where many of our students work in the summer, has a psychological clinic where undisciplined and slow learning students can receive help. There is a complete Indian Health Clinic and hospital only one block from our school which is always open to the students. We have a special program for alcoholism and drug abuse. Also we have a four-lane highway going through Lawton between Oklahoma City and Wichita Falls.

As you know, the highest rate of suicides occurs among the American Indians. According to Mr. Frank Reynolds of CBS, it costs the American taxpayer $750,000 to maintain one prisoner for 50 years. This is three-quarters of what we need to operate the school. If we save only one person from a life of crime, we have paid almost for a whole school year.

The fact is that our enrollment has been hurt by the Bureau over the last 2 years by the Lavis report in 1978 and the March 31, 1980, report that Ft. Sill Indian School would close permanently. But we are not worried about getting our students back when they are assured that our school will open this fall. We are anticipating some 200 students from 60 tribes and we have most of their names and addresses.

BIA administrative decisions have been detrimental to Indian consultation on policy changes of Public Law 93–638 and the Education Program Act, Public Law 95–561, and also Public Law 95–608 which breaks up Indian families. The Interior Department did not consult with tribes or divisions about the proposed closing. No options other than consolidation were ever offered, no proposals about cost control were made.

Fort Sill is a unique school, being one in which students are usually admitted with academic problems. Dr. George Underwood, of the University of Utah, reported in his survey that FSIS students have average or above intellectual ability but range from 2.5 to 5 years behind in basic skills, such as reading, language, and math. Indian boarding students have needs that are totally unmet by community public schools which, at best, enable them to achieve very little. Many FSIS students have already failed in other educational institutions.

If FSIS is closed, one must also consider that in Oklahoma the State Department of Education funds are expected to be cut from 19 million dollars to 6 million in federal impact dollars for slow learners slashing many special education programs including districts with heavy Indian populations.

Before Mr. Rick Lavis recommended that FSIS funding be terminated following Mr. Carter's budgetary request, FSIS for the fiscal year 1981 was to receive an operational amount in the sum of $961,000 under the Bureau's current funding formula.

At the present time, however, our tentative (formula funding) budget for the fiscal year 1981 is $691,362, which is too small to take care of the needs of 200 students, such as food, shelter, academic supplies, etc., allowing only $5046 per child. The best we can manage to feed and house these children for adequately, allowing for inflationary costs, is $6500 each. We need, then, $981,000 which is sufficient for these basic needs.

Let it be pointed out that in the Anadarko-Muskogee Area, FSIS is the least expensive per capita in the state of Oklahoma as is Stewart School in the Phoenix Area.

Mr. Chairman and members of the Select Committee, we need your vote, we need your support, we ask you to help us overcome this obstacle. Above all, our children need your help.

Mr. Peirce. That concludes it, Mr. Chairman. We will be happy to answer any questions you may have.

Senator Hatfield. Thank you, Mr. Peirce. We appreciate your taking the leadership in putting this panel together. It will be very helpful to our proceedings.

I would like to invite Mr. Joseph Dupris, executive director of the Coalition of Indian Controlled School Boards, of Denver, Colo., to come to the table.

Mr. Dupris, I understand you are accompanied by a number of associates, so you may invite your associates to the table as well.

Mr. Dupris. Mr. Chairman, I want to thank you very much for the opportunity to present testimony to the committee on the issues that we feel are very important in Indian education.

I would like to introduce Birgil Kills Straight, who is the president of the board of Indian Controlled School Boards. He will make introductions of the other members of the panel. Birgil?

STATEMENT OF BIRGIL KILLS STRAIGHT, PRESIDENT OF THE BOARD, INDIAN CONTROLLED SCHOOL BOARDS

Mr. Kills Straight. Thank you, Joe.

Mr. Chairman, I would first like to introduce myself and three of my colleagues before I make a brief statement. As was said, my name is Birgil Kills Straight. I am an Oglala LaCota from Kyle, S. Dak. I was formerly a representative of several school boards, including Red Cloud, which is a parochial Catholic school; the Pierre Indian Learning Center, a former BIA special education school that was contracted by the LaCota Tribes; Flandreau Indian School which was a BIA boarding school; and little Moon School Board at Kyle, a former BIA school that is currently under contract.

I am currently the president of the board of trustees of the Oglala Sioux Community College.

I would like to introduce Mrs. Mary Helen Creamer. Mrs. Creamer is acting director of the Association of Navajo Community Controlled School Boards. She is a fullblood Navajo. She has been director of the Borrego Pass contract school at Crown Point, N. Mex., for 5 years, previous to which she was principal of the school. She is also a member of the board of directors of the Coalition of Indian Controlled School Boards. She represents all three agencies in her testimony here.

Mr. George Jim is the president of the Borrego Pass School Board and has been an active leader on the board for 2 years. He is also secretary of the board of directors of the Association of Navajo Community Controlled School Boards. He is a fullblood Navajo man and has had 10 years' experience as an employee of the BIA educational program at the Crown Point Boarding School prior to his election to the Borrego Pass School Board. A parent of students at both contract BIA boarding schools. Mr. Jim uniquely represents the interests of the Navajo people of the eastern Navajo area.

Mr. Donald Creamer is the director of special projects at the Borrego Pass School and a former member of the BIA task force on formula funding. Since completing his work with the task force, he has continued working with related problems and issues for the Office of Indian Education Programs in training of field personnel, formula funding procedures, development of financial planning processes, and draft writing of proposed regulations and amendments to the formula funding system. He has taken major initiatives in gathering information from a wide variety of sources to support his testimony, which he will give here this afternoon.

Being a member of different educational organizations, I would like to make some statements that will respond to some of our needs out in Indian country. As I said, Mr. Dupris will go into greater detail. After that, I would like to be excused so that I may attend a meeting downtown.

The recent passage of Public Law 95-471 was a milestone, but it also created some problems for us and for the Indian colleges. The Snyder Act issue, as it affects tribal colleges, especially the Oglala Sioux, the Rosebud, and Turtle Mountain people—the funding for these has been cut off.

The Department of the Interior and Office of Management and the Budget has decided that tribally controlled community colleges are not eligible to receive funding under Snyder Act authority. The Solicitor, however, has ruled that section 108 of Public Law 95-471 clearly allows tribal colleges to receive funding from other Federal sources.

If the Interior and the Office of Management and the Budget stick to their position regarding this matter, these three colleges, as well as other tribes that are currently benefiting from the act, will be penalized. I would like to see the Congress reaffirm their intent that tribal colleges are eligible to receive funds from any funding source for the benefit of postsecondary education—funding sources such as the Snyder Act and title III.

In view of the lateness of the BIA in getting Public Law 95-471 grant moneys out to tribal colleges this year, I, and the Coalition of Indian Controlled School Boards, would like to recommend to Congress that forward funding be provided in the fiscal year 1981 funding budget to allow tribal colleges to open its schools without undue delay.

Title III funding for schools that are members of the American Indian Higher Education Consortium in fiscal year 1981 have also been cut. AIHEC, the only Indian consortium, is the only organization that has been defunded.

Fifty percent of the AIHEC member institutions have not received funding in fiscal year 1981. It appears that Public Law 95-471 may have had some influence on the title III funding decision affecting tribal colleges next year.

We understand that black and Chicano colleges and other minority colleges have all received less than full amount funding. They may be less than full amount, but they still receive funds, while the only Indian one that has been active for some time has not received any funding at all.

Coming from a local community, Kyle, S. Dak., as a member of the school board there, I fought to receive construction funding. At the time, Senator Abourezk took this to the Senate floor and eventually the General Accounting Office did a study.

At the time, we were requesting something like $2.7 million for a high school. Later, after it was approved, inflationary factors caused it to rise to close to $7 million, or $15,000 away from $7 million. That was 4 years ago.

Currently, we need at least $1.5 million to finish the construction. We noticed that in the budget that BIA presented to us there was a funding request, but it was only a very minimal one.

I sat in the back of the room earlier and Senator Melcher questioned a person who, I believe, came from Fort Sill, concerning why the cost per student was so high. I have had a similar experience in the Pierre Indian Learning Center. The Pierre Indian Learning Center had received contracts for about $8,000—or, I think it was $4,000. The South Dakota formula stated that for special education students there it cost approximately $15,000 per student.

BIA was trying to fund the Pierre Indian Learning Center at a lower rate.

What happens to a child, who has not gone to the Pierre Indian Learning Center, is that he invariably ends up in a State reformatory and correctional facility. Then BIA social services pump in $13,000 for that child to finish his education in a State institution.

Whereas, before, if he had received his education at the Pierre Indian Learning Center, it would have cost a lot less. These are the inconsistencies that I would like to mention.

As I said earlier, I will turn this over to my colleagues here who will tell you, in more detail, about these things that I have mentioned briefly.

Senator HATFIELD. Thank you very much.

Without objection, the material that you have submitted will be made a part of the record at this point.

[Indirect Cost Problems of Contract Schools and Other Public Law 93-638 Contractors, and related materials, follows. Testimony resumes on p. 190.]

INDIRECT COST PROBLEMS OF CONTRACT SCHOOLS AND OTHER PL 93-638 CONTRACTORS

The system for determining the overhead or indirect costs of contractors providing goods and services to the Federal government was developed for use, primarily, with private vendors, governmental organizations, and institutions of higher education. These organizations traditionally have resources of their "own" for both operating capital and some administrative overhead operations. Regulations developed for funding the overhead operations associated with administering Federal contracts and grants have been heavily influenced by efforts to assure that the Federal government does not end up financing overhead operations that organizations would be conducting anyway, without the Federal income.

Indian contractors under P.L. 93-638 (especially the contract schools) have no separate existence aside from the administration of Federal programs for Indian people. Most are 100% Federally funded; have no operating capital of their "own"; and no other source of administrative overhead resources than the Federal government.

The use of regular Federal procurement procedures for P.L. 93-638 contracts with Indian tribes and organizations, in view of the fact that the purpose of P.L. 93-638 is to enable Indian persons to control their own programs, is an anomaly in itself. The rationale behind P.L. 95-224 (the Federal Grant and Cooperative Agreement Act) would suggest that these ought to be Grant Programs for assistance to Indian people, rather than procurement operations for the benefit of the government. However, the most damaging part of these procurement procedures, for Indian contractors, is their provisions for use of Indirect Cost Rates to fund the overhead operations of the contractor.

Many Indian contractors face the problem of "theoretical over-recovery" of indirect costs — see attached analysis. In early May of 1980 the Office of the Inspector General of the Department of the Interior, Central Region, recognized the seriousness of this problem, and instituted measures to create a new, "lump sum" basis for the indirect costs of these contractors. (letter attached). These measures were later modified to permit particular contractors to choose between remaining on "rates" or to go "lump sum", and a deadline has been fixed (letter attached) for contractor decisions in this matter for the current year.

The Inspector General initiative, however, did not anticipate the impact which "lump sum" agreements between the contractors and the BIA would create on the FY 81 BIA budget. Estimates of the additional dollar cost for the schools in the Central Region are attached. These costs must be borne by the BIA under "lump sum" agreements, but have previously been borne by other Agencies of the government.

Additionally, the negotiation of lump sums to cover the total overhead costs of each school is still optional with the BIA. OIG is not a policy making body. Some schools may find themselves without a "rate", and facing a BIA contracting officer who does not favor paying total contractor overhead costs.

We believe that the "lump sum" option should be available to Indian contractors, and ask the Committee's support for enabling language and funds in the FY 81 Appropriations Act, establishing it as policy to provide this option.

THE THEORETICAL OVER-RECOVERY EFFECT

The rationale for use of a percentage ratio for determining overhead costs is that it may be applied equally to all contractor fund sources to generate each source's "fair share" of the cost of contractor administrative operations. In order to assure this fairness, the rate system obliges the contractor to recover the total amount to which the rate entitles him/her from each source of contractor funds.

Federal policy, however, allows each Federal agency to decide whether it wants to pay this share. Some pay all of it. Some pay part, up to a predetermined limit, or "subject to availability of funds". Some pay nothing, holding that their funds are appropriated only for direct services. Indian contractors and grantees have little or no control over these policies. They are caught between Indian people's need for such direct services, and contractor need for administrative functions. Many have accepted funds from Federal agencies which do or did not pay their share of contractor overhead costs under the rate. They have done so in order to secure the direct services of these Federal agencies for Indian people.

This has placed them in the situation of a "theoretical over-recovery". The key concepts involved are:

"recovery"
Contractor receipt of payment for overhead operations at the indirect cost rate set by Federal auditors, as a surcharge on the actual direct costs expended in carrying out programs.

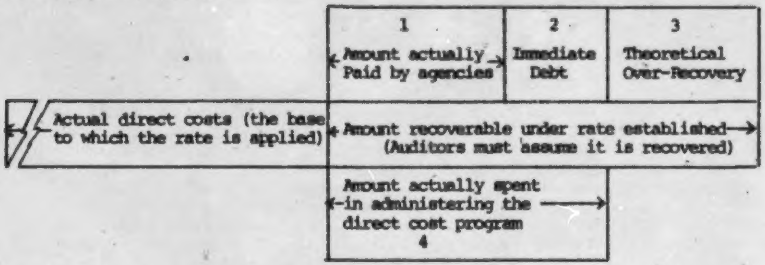
"Under-Recovery"
The situation when contractor recovery under the rate is less than the contractor's actual allowable costs for overhead operations. Indirect cost carry-forward procedures use this situation as evidence that the rate has been set too low, and provide for adjusting it upward in a later fiscal period to compensate. It is assumed that the contractor has borrowed funds to pay for operations until compensated.

100% Federally funded contractors cannot pay interest in order to borrow the operating capital until compensated later.

"Over-Recovery"
The situation when contractor recovery under the rate is more than the contractor's actual allowable costs for overhead operations. Indirect cost carry-forward procedures use this situation as evidence that the rate has been set too high, and require adjusting it downward in a later fiscal period to compensate. It is assumed that the contractor has the over-recovered funds in possession, to use during this later fiscal period to provide overhead services.

If amounts over-recovered exceed amounts authorised for the new fiscal period, the contractor is obliged both to administer the program for that period, and to pay back the surplus.

The contractor's obligation to "recover" all amounts due under an indirect cost rate set by auditors creates the situation of a theoretical over-recovery under these procedures.


1
Amount actually Paid by agencies
2
Immediate Debt
3
Theoretical Over-Recovery
Actual direct costs (the base to which the rate is applied)
Amount recoverable under rate established
(Auditors must assume it is recovered)
Amount actually spent in administering the direct cost program
4

1. The amount actually recovered is limited by policies of the funding agencies. It may not be known until the close of the fiscal period due to "availability of funds" uncertainties. Commercial contractors make up the difference out of their own operating capital or profits.

2. If amount spent exceeds amount actually paid contractor by funding agencies, an immediate debt is incurred. 100% Federally funded contractors have no source of funds to overcome this debt. They cannot borrow funds to finance it because they cannot pay interest with Federal funds.

3. Federal auditors must hold the contractor liable for having recovered this amount (even though it was not recovered, and was not spent to administer services) under the "fairness" principle (above). They must assume it is available to administer future programs. If not needed for this purpose, it must be repaid by the contractor to the Federal government.

   While "theoretical", this is a real, enforceable long term fiscal obligation of the contractor. 100% Federally funded Indian contractors have no other means of resolving it but bankruptcy proceedings.

4. In a peculiarly perverse spin-off of these procedures, the more the contractor tries to reduce administrative costs to compensate for failure of Federal agencies to pay their share of these costs, the greater the theoretical over-recovery (and future contractor debt) becomes.

RECOMMENDATIONS FOR INDIRECT COST ISSUES

That the Select Committee support the Senate Appropriations sub-committee on Interior in the following actions:

a. In securing a complete audit of the overhead and program costs of the Bureau of Indian Affairs and the Department of Interior for services to Indian people and tribes by the GAO.

b. In incorporating sufficient funds to provide for BIA negotiation of lump sums for Indian contractors under P.L. 93-638 to cover all contractor overhead costs, where contractors are 100% Federally funded and have no other resources for administrative operating.

C. In requiring the BIA to provide for 100% payment of its obligations for Indian contract support, if funds need to be withdrawn for this purpose from its own administrative budgets.

That the Select Committee recognize the problem faced by contract schools which have been unable in the past to negotiate indirect cost rates with the BIA or Interior OIG, and have been required to pay their overhead costs out of ISEP formula allocations, and direct the BIA to correct this inequity by negotiating lump sum agreements with these schools immediately, to cover the costs of their administration of BIA school programs for Indian children.

That the Select Committee direct the BIA to develop a formula for funding overhead costs of contracting education services, based upon current indirect cost practices with those schools which have established rates or lump sums, and also upon the BIA's own overhead costs and functions when data are available from an audit of these costs and functions.

That the Select Committee institute a study to determine whether the BIA should be required to separate its direct program services to Indian tribes and people from its salaries and expenses for executive department officers and employees, in a manner consistent with that now used by the Department of Education, and exempting the direct program services from such constraints upon executive department officers and employees as the current travel ceiling and reduction.

That the Select Committee take under advisement the question of whether the Education program of the BIA ought to be forward-funded in the same manner as the school programs of the Department of Education are now funded, and cause studies of the impact of such a procedure to be made and transmitted to the Appropriations Committees of the Senate and House for future action.

That the BIA be directed to provide technical assistance as necessary to Indian contractors in developing proposals for lump-sum overhead costs, or indirect cost rates, resuring contractor choice of appropriate independent technical assistance agencies at BIA cost.

United States Department of the Interior
OFFICE OF THE SECRETARY
OFFICE OF INSPECTOR GENERAL
CENTRAL REGION
134 UNION BLVD., SUITE 510
LAKEWOOD, COLORADO 80228

5/14

May 6, 1980

Ms. Mary H. Creamer, Director
Borrego Pass School
P.O. Drawer A
Crownpoint, New Mexico 87313

Dear Ms. Creamer:

Due to recent changes in the funding for contract schools and the Bureau of Indian Affairs' (BIA) recognition that indirect cost rates do not provide all the funds necessary for the administrative costs of the schools, the following changes in the use of indirect cost rates are effective immediately:

1. Any contract school that does not have an approved rate as of this date for Fiscal Year (FY) 1981 should not submit a proposal for an indirect cost rate.

2. Any contract school that does not now have an indirect cost rate approved for FY 1980 is advised that negotiation will be terminated.

3. Any contract school that has a prior year negotiated rate, whether it is of a provisional/final or fixed with carry-forward nature will have all negotiated rates finalized as of the end of the rate period.

This will be accomplished so as to remove all contract schools from indirect cost rate obligations. The alternative to indirect cost rates is to negotiate a lump-sum agreement for administrative costs with your BIA contracting officer. This is accomplished by identifying what costs would have been included in the indirect cost pool if a proposal were to be submitted and negotiating that amount to be paid as a negotiated lump-sum.

Sincerely yours,

Delbert J. Fickes
Delbert J. Fickes
Regional Audit Supervisor

cc: Navajo Area Office, Bureau of Indian Affairs

JCP

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
Navajo Area Office
P. O. Box 1060
Gallup, New Mexico 87301

IN REPLY REFER TO:

JUL 18 1980

Director
Borrego Pass School
P. O. Drawer A
Crownpoint, New Mexico 87313

Dear Sir:

This is to inform you that this office has reached an agreement with the Office of Inspector General to extend July 21, 1980 deadline to August 10, 1980 for contract schools to notify the Office of Inspector General of the option of continuing under the indirect rate concept or to negotiate lump-sum amounts.

A meeting has been scheduled at the Navajo Area Office, Gallup, New Mexico on July 25, 1980 between the Area Contracting Services and all contract schools at 10:00 A.M., Contract Conference Room. This meeting is being held to disseminate information on details and policy guidelines reference indirect cost rate and negotiated lump-sum for overhead in order that each contract schools can make a final decision in the method of securing and administering indirect cost for Fiscal Year 1981.

You are requested to attend the meeting. Please bring copies of all correspondence, rate agreements, or other information. Your acknowledgement to attend this meeting is requested by calling or confirming your attendance to Area Code (505) 863-9501, Ext. 251.

Sincerely yours,

Chief, Branch of Contracting Services
Contracting Officer

Coalition of Indian Controlled School Boards

FY '80 INDIRECT COSTS
CENTRAL REGION CONTRACT SCHOOLS

SCHOOL	RATE	AMOUNT	BIA'S SHARE	DIFFERENCE
ABERDEEN AREA:				
Crow Creek	3.1%	$ 14,830.00	$ 14,190.00	$ 640.00
Little Wound	15.6%	242,888.00	155,448.00	87,440.00
Loneman	14.2%	89,455.00	67,986.00	21,469.00
St. Francis	19.4%	253,743.00	215,682.00	38,061.00
Ojibway Indian School	32.2%	78,341.00	57,189.00	21,152.00
Marty Indian School	10.9%	120,779.00	96,623.00	24,156.00
Pierre Indian Learning Center	30.3%	231,666.00	224,716.00	6,950.00
Red Scaffold	45.73%	93,250.00	93,250.00	-0-
NAVAJO AREA:				
Alamo Navajo	Receives Lump Sum of		336,000.00	-0-
Black Mesa Community School	30. %	107,900.00	86,320.00	21,580.00
Borrego Pass School	31.2 %	283,979.00	181,747.00	102,232.00
Little Singer School	66.3%	86,325.00	84,599.00	1,726.00
Rock Point Community School	19.7%	318,234.00	238,676.00	79,558.00
Rough Rock	27.7%	685,243.00	452,260.00	232,983.00
ANADARKO AREA:				
Institute of Southern Plains	38.7%	53,600.00	53,600.00	-0-
BILLINGS AREA:				
Wind River Indian Education Association	20.9%	98,188.00	77,569.00	20,619.00
St. Stephens Indian School	20.7%	151,008.00	131,377.00	19,631.00
ALBUQUERQUE AREA:				
Ramah	19.2%	1,066,223.00	746,356.00	319,867.00
TOTAL:				

Appendix C

CONTRACT SCHOOLS

Aberdeen

* Red Scaffold Day School
Faith, SD 57626
Agency: Cheyenne River
Contractor: Red Scaffold
School Board, Inc.
Faith, SD 57626

St. Michael's Tribal School
St. Michael's, ND 58370
Agency: Fort Totten
Contractor: Devils Lake
Sioux Tribe, Inc.
Fort Totten, ND 58335

Lower Brule Day School
Lower Brule, SD 57548
Agency: Lower Brule
Contractor: Lower Brule Sioux
Tribe, Inc.
Lower Brule, SD 57548

* Crow Creek High School
Stephan, SD 57346
Agency: Fort Thompson
Contractor: Crow Creek Reservation
High School Board
Fort Thompson, SD 57339

Theodore Jamison Elementary School
3315 S Airport Road
Bismarck, ND 58501
Agency: Aberdeen A.O.
Contractor: United Tribes Education
Technical Center, Inc.
3315 S Airport Road
Bismarck, ND 58501

* Pierre Indian Learning Center
Star Route #3
Pierre, SD 57501
Agency: Aberdeen A.O.
Contractor: Indian Board of Education
for Pierre Indian Learning
Center, Inc.
Star Route #3
Pierre, SD 57501

Mandaree Day School
Mandaree, ND 58757
Agency: Fort Berthold
Contractor: Mandaree School District #36
Mandaree, ND 58757

Twin Buttes Day School
Halliday, ND 58636
Agency: Fort Berthold
Contractor: Twin Buttes School
District #37
Halliday, ND 58636

* Little Wound Day School
PO Box 289
Kyle, SD 57752
Agency: Pine Ridge
Contractor: Little Wound School
Board, Inc.
Kyle, SD 57752

* Loneman Day School
Oglala, SD 57764
Agency: Pine Ridge
Contractor: Loneman School Corporation
Oglala, SD 57764

* St. Francis Indian School
St. Francis, SD 57572
Agency: Rosebud
Contractor: Sicangu Oyate Ho, Inc.
St. Francis, SD 57572

* Marty Indian School
Marty, SD 57361
Agency: Yankton
Contractor: Marty Indian School
Board, Inc.
Marty, SD 57361

* Ojibway Indian School
PO Box 3-A
Belcourt, ND 58316
Agency: Turtle Mountain
Contractor: Turtle Mountain Band
of Chippewa Indians, Inc.
PO Box 3-A
Belcourt, ND 58316

Turtle Mountain High School
Belcourt, ND 58316
Agency: Turtle Mountain
Contractor: Turtle Mountain Band
of Chippewa Indians, Inc.
Belcourt, ND 58316

Albuquerque

Albuquerque Indian School
1000 Menaul Blvd, NW
Albuquerque, NM 87107
Agency: ORBS
Contractor: All Indian Pueblo
Council, Inc.
PO Box 6507
Albuquerque, NM 87197

* Pine Hill Schools
CPO Drawer H
Pine Hill, NM 87321
Agency: Ramah Navajo
Contractor: Ramah Navajo School
Board, Inc.
PO Box 248
Ramah, NM 87321

Acoma Early Childhood Development
Program
Acoma, NM 87049
Agency: Southern Pueblo
Agency SPA
Contractor: Acoma Pueblo
PO Box 64
San Fidel, NM 87049

Anadarko

* Institute of the Southern Plains
PO Box 231
Hammon, OK 73650
Agency: Concho
Contractor: Institute of the Southern
Plains School Board, Inc.
Hammon, OK 73650

Billings

Busby School
Busby, MT 59016
Agency: Northern Cheyenne
Contractor: Busby School Board, Inc.
Busby, MT 59016

Labre Indian School
Ashland, MT 59003
Agency: Northern Cheyenne
Contractor: Labre Indian School, Inc.
Ashland, MT 59003

Two Eagle River School
Dixon, MT 59831
Agency: Flathead
Contractor: Conf. Salish and Kootnai
Tribes of Flathead Reservation, Inc.
Pablo, MT 59095

* St. Stephens Indian School
PO Box 345
St. Stephens, WY 82524
Agency: Wind River
Contractor: St. Stephens Indian
School Education
Association, Inc.
St. Stephens, WY 82524

* Wyoming Indian High School
Ethete, WY 82520
Agency: Wind River
Contractor: Wind River Indian Education Association, Inc.
Ethete, WY 82520

Eastern

Choctaw Parent-Child Development
Program
Rt #7 Box 21
Philadelphia, MS 39350
Agency: Choctaw
Contractor: Mississippi Band of
Choctaw Indians
Tribal Office Building
Rt 7 Box 21
Philadelphia, MS 39350

Miscosukee School
PO Box 440021
Miami, FL 33144
Agency: Eastern A.O.
Contractor: Miscosukee Tribe of
Indians of Florida
PO Box 440021
Tamiami Station
Miami, FL 33144

Minneapolis

Nay-Ah-Shig Day School
Star Route
Onamia, MN 56359
Agency: Minnesota
Contractor: Mille Lacs Reservation
Business Committee
Star Route
Onamia, MN 56359

Lac Courtes Oreilles-Ojibway School
Route #1
Couderay, WI 54828
Agency: Great Lakes
Contractor: Lac Courtes Oreilles-
Ojibway Tribal Governing
Board
Route #2
Hayward, WI 54843

Oneida Tribal School
PO Box 198 c/o SHC
Oneida, WI 54155
Agency: Great Lakes
Contractor: Oneida Tribe of
Indians of Wisconsin
1288 Fish Creek Road
DePere, WI 54115

Hannahville Indian School
Route #1
Wilson, MI 49896
Agency: Michigan
Contractor: Hannahville Indian
Education Committee
Route #1
Wilson, MI 49896

Bug-O-Nay-Ge-Shig School
PO Box 82
Cass Lake, MN 56533
Agency: Minnesota
Contractor: Leech Lake Reservation Business
Committee
PO Box 308
Cass Lake, MN 56533

Menominee Innovative School
PO Box 397
Keshena, WI 54135
Agency: Minneapolis A.O.
Contractor: Menominee Indian Tribe
of Wisconsin
PO Box 397
Keshena, WI 54135

Navajo

A School For Me
PO Box 273
Tohatchi, NM 87325
Agency: Fort Defiance
Contractor: A School For Me, Inc.
PO Box 273
Tohatchi, NM 87325

*Rough Rock Schools
Star Route #1
Rough Rock, AZ 86503
Agency: Chinle
Contractor: Rough Rock School
Board, Inc.
Star Route #1
Rough Rock, AZ 86503

Little Singer Community School
Box 239, Star Route
Winslow, AZ 86047
Agency: Tuba City
Contractor:

*Borrego Pass School
PO Drawer A
Crownpoint, NM 87313
Agency: Eastern Navajo
Contractor: Borrego Pass School Board,
Inc.
PO Drawer A
Crownpoint, NM 87313

*Rock Point Community School
Via
Chinle, AZ 86503
Agency: Chinle
Contractor: Rock Point School Board,
Inc.
Via
Chinle, AZ 86503

*Black Mesa Community School
Box 215, Star Route #1
Rough Rock, AZ 86503
Agency: Chinle
Contractor: Black Mesa Community School
Board, Inc.
Box 215, Star Route #1
Chinle, AZ 86503

Shiprock Alternative School
PO Box 1799
Shiprock, NM 87420
Agency: Shiprock
Contractor: Shiprock Alternative School
Board, Inc.
PO Box 1799
Shiprock, NM 87420

Navajo Academy
1200 W Apache Street
Farmington, NM 87401
Agency: Shiprock
Contractor: Navajo Academy Board of
Directors
1200 W Apache Street
Farmington, NM 87401

Alamo Community School
Via
Magdalena, NM 87825
Agency: Eastern
Contractor: Alamo Community School
Board, Inc.
Via
Magdalena, NM 87825

Phoenix

Duckwater-Shoshone Elementary School
PO Box 3
Duckwater, NV 89314
Agency: Eastern Nevada
Contractor: Duckwater Tribe, Inc.
Duckwater, NV 89314

Blackwater Community School
PO Box 1137
Coolidge, AZ 85228
Agency: Pima
Contractor: Gila River Indian
Community
PO Box 123
Sacaton, AZ 85247

Hoteville Day School
Hoteville, AZ 86030
Agency: Hopi
Contractor: Hopi Tribal Council
Oraibi, AZ 86038

Moencopi Day School
PO Box 185
Tuba City, AZ 86045
Agency: Hopi
Contractor: Hopi Tribal Council
PO Box 123
Oraibi, AZ 86039

Havasupai Elementary School
Supai, AZ 86435
Agency: Truxton-Canjon
Contractor: Havasupai Tribal
Council, Inc
PO Box 10
Supai, AZ 86435

Fort McDowell Pre-School
PO Box 1779
Fountain Hills, AZ 85268
Agency: Salt River
Contractor: Fort McDowell Mohave
Apache Indian
PO Box 244
Fountain Hills, AZ 85268

Pyramid Lake School
Nixon, NV 89424
Agency: Paiute
Contractor: Paiute Tribal Council
Education Board
PO Box 256
Nixon, NV 89424

Portland

Coeur d'Alene Tribal School
DeSmet, ID 83824
Agency: Northern Idaho
Contractor: Coeur d'Alene Tribal Council
Plummer, ID 83851

Paschal Sherman Indian School
Omak Lake Road
Omak, WA 98841
Agency: Colville
Contractor: Colville Business Council
PO Box 150
Nespelem, WA 99155

Shoshone-Bannock Alternative School
PO Box 306
Fort Hall, ID 83203
Agency: Fort Hall
Contractor: Fort Hall Business Committee,
Shoshone-Bannock Tribes
PO Box 306
Fort Hall, ID 83203

Nez Perce Tribal School
PO Box 305
Lapwai, ID 83540
Agency: Northern Idaho
Contractor: Nez Perce Tribe of Idaho
PO Box 305
Lapwai, ID 83540

Puyallup Tribal School
519 East 28th Street
Tacoma, WA 98421
Agency: Puget Sound
Contractor: Puyallup Tribal Council
2215 East 32nd Street
Tacoma, WA 98421

Yakima Tribal School
PO Box 151
Toppenish, WA 98948
Agency: Yakima
Contractor: Conf. Tribes and Bands of
the Yakima Indian Nation
PO Box 151
Toppenish, WA 98948

Quillette Tribal School
PO Box 279
LaPush, WA 98350
Agency: Olympic Peninsula
Contractor: Quillette Tribal Council
PO Box 279
LaPush, WA 98350

Sacramento

Hoopa Valley Tribal Early Education Program
PO Box 817
Hoopa, CA 95546
Agency: Hoopa
Contractor: Hoopa Valley Tribe
PO Box 817
Hoopa, CA 95546

Round Valley Tribal School
PO Box 448
Covelo, CA 95428
Agency: Central California
Contractor: Covelo Community Council
Covelo, CA 95428

PROBLEMS CONTRACT SCHOOLS HAVE BEEN HAVING WITH FACILITY OPERATION AND MAINTENANCE

Publ. Law 95-561, Sec. 1126(b) contains the disclaimer "nothing in this Act shall be construed to require the provision of separate support services for Indian Education". In implementing the Act the BIA has chosen not to provide such separate services, but to continue with "shared" support services between Education and the rest of the Bureau. Among these "shared" support services are the construction, improvement, repair, maintenance, and operation of school facilities.

Sec. 1128(a) of the Act requires establishment of a formula for determining the funding levels of both BIA and contract schools, and requires consideration of the "maintenance and repair costs associated with the physical condition of educational facilities" as one factor among others in developing this formula. The field task force established to develop the funding formula only partially addressed this question in drafting the initial formula regulations. Task force members were informed that a major effort was underway to assess the physical condition of BIA educational facilities, through a new Facility Construction and Operation Improvement Division (FCOID) in the office of the Secretary of the Interior, under the direction of a Mr. Dick Steele. The task force elected to defer action on a general Operations and Maintenance (O&M) formula until the report on this effort (popularly referred to as the "Steele Report") was made available.

Hence, the only part of the O&M question addressed in the initial formula regulations was the establishment of a special section assuring provision of funds for operation and maintenance of those BIA funded contract schools which use non-BIA-owned facilities (the so-called Previously Private schools). This was done by establishing a special fund and formula for the purpose, for FY 80.

Considerable difficulty was experienced by some of these schools in securing payments under this fund, because of confusion at the BIA's Central Office level as to which BIA budget activity the funds had been appropriated under. The Regulation seemed clear in identifying budget activity 3500 (Facility Management), and as late as 2/29/80 BIA 3500 Advice of Allotment documents (attached) contained wording projecting the reprogramming of FY 80 3500 funds for this purpose. Critical shortfalls in 3500 funding, however, appear to have precipitated a search for some rationale for taking these funds from another budget activity, and on 4/23/80 the Assistant Secretary for Policy, Budget and Administration took the position that funds specifically for this purpose had been appropriated in the 3100 budget activity (Education) in the line item for Previously Private Schools.

Right or wrong, this decision is apparently being implemented with pay cost supplemental funds recently received for the 3100 budget activity. Serious deficits may result in local school budgets, where school boards counted on receipt of these funds to finance mandatory Federal employee pay raises, but at least the focused discrimination against the Previously Private contract schools in payment of school facility operation and maintenance costs appears to have been eliminated for FY 80.

The problem remains, however, for FY 81, since the O&M formula has still not been developed; no funds have been earmarked in the FY 81 request for this purpose for these schools; and the special portion of the formula regulations covering this question is written in terms of FY 80 only. Furthermore, the critical O&M shortfall for the BIA's regular Facility Maintenance program appears to be un-resolved as well. A second report describing this related problem and its continuing impact is attached.

Until a formula is developed, some contract and all BIA operated schools will continue to be dependent upon BIA's Branch of Facility Management for school facility operation and maintenance services, and repairs up to $5,000 per project. Inquiry into the development of this formula has elicited the following information and commentary:

A. The BIA's Office of Indian Education Programs (OIEP) has included responsibility for preliminary studies and drafting of proposed regulations for this part of the funding formula in its contract with the National Conference of State Legislatures. The contractor reports having attempted to secure information for this purpose from the "Steele Report" without success.

B. OIEP officials report that attempts to secure such information have met with no success.

C. At the same time, Mr. Steele reports that Education has not asked for any information, and indicates that he is fully willing to cooperate in any way required. He further reports having developed and field tested an O&M module and manual for school facilities which will allow accurate costing of both operation and maintenance for specific facilities. In a second phase of development, already initiated, this module will be applied at each school site, and site specific cost data developed. He projects about 18 months for this phase, at which point sufficient data should be available to base a functional O&M formula on.

Once a formula is developed, Sec. 1129 of the act requires direct allotment of the funds determined by the formula for each school, to the school. No one seems prepared for the awesome impact that direct allotment of O&M funds to schools, under a formula, could have. However, the current funding crisis in the Branch of Facility Management, due to withdrawal of only $4.6 Million in major repair funds, is a fair preview. A report on that issue follows the Recommendations below.

RECOMMENDATIONS

1. That funds for the O&M of Previously Private schools, fully in addition to the FY 81 appropriations request for the BIA's 3500 budget activity, be appropriated, and earmarked in the 3500 budget activity for FY 81, for this purpose.

2. That the BIA be directed in committee report language to update the formula for Previously Private O&M initially published in 25 CFR 31h. Subpart L, and continue it in force to distribute appropriations for this purpose until a more general O&M formula is in force.

3. That Select Committee oversight be exercised to assure that the OIEP and the FCOID cooperate in developing the O&M formula as expeditiously as humanly possible.

4. That oversight be exercised also to assure that the Assistant Secretary for Indian Affairs makes policy decisions regarding the means of providing O&M services to schools once a formula is implemented, in time so that the Branch of Facility Management can prepare for the funding changes, and adjust

its staffing patterns without absorbing whole budgets maintaining un-needed personnel, or precipitating personal crises for staff members by adverse action furloughs without pay, and sudden reductions in force.

RELATED ISSUE OF THE BRANCH OF FACILITY MANAGEMENT'S CURRENT FUNDING CRISIS

Information on this question is presented from the point of view of the Navajo Area, and Eastern Navajo Agency, as examples of a more general problem, because these information sources were most readily available to us. The problems discussed appear to be particularly critical in this Area, and in Phoenix and Aberdeen Areas, according to comments from the person assigned in the Commissioner's office to seek solutions.

A reorganization of BIA facility repair services for Fiscal Year 1980 combined the previous "Major Repair" service (formerly element 65, component 72 of budget activity 3500) with its "Facility Improvement" service, and created "Facility Improvement and Repair" under the control of the Division of Facility Engineering headquartered in Albuquerque and operating under the general oversight of the FCOID. This reorganization moved funds which had previously been allotted to Areas for "Major Repair" to the Albuquerque office, and reduced the BIA's element 65 budget by $4.671 million (copy of justification sheet attached). Of this reduction, some 2.2 million was apparently applied to the FY 80 allotment for Element 65 for the Navajo Area.

The Navajo Area Office was not notified of the reduction, however, until late in the budget period affected. Area Office Facility Management services were operated from a Tentative Allotment (attached) authorizing funding at "FY 79 level" from October to March, at which time an Advice of Allotment was received (attached) for actual funding levels. Breakouts of the various elements, by Agency (attached) reflect a decrease of $2.636 million in Element 65, and an increase of $1.244 million in Element 64 (Operations and Maintenance) for an overall decrease in repair and maintenance funding of $1.461 million.

At the same time, drastic increases in fuel and energy costs in general have created a serious shortfall in the Operations and Maintenance budget. Requests for supplemental appropriations went up through the system in late FY 79 (documentation unavailable at present), to cover this drain on resources. A "Steering Committee" composed of the Assistant Secretary for Policy, Budget and Administration, the Assistant Secretary for Indian Affairs, and the Commissioner of Indian Affairs, set up to oversee the operations of the new FCOID, reviewed these requests in November/December 1979, and for reasons unknown to us were reluctant to ask for a supplemental appropriation, opting to reprogram existing funds as necessary to cover cost increases. (documentation also unavailable). So far as we know, Area offices were not notified of this decision, and as late as last week were still hoping for a supplemental.

The movement of funds out of Element 65 was not anticipated in the staffing patterns of the Navajo Area Branch of Facility Management. The Area had just completed (in June, 1979) a reorganization of its own, decentralizing much of this staff into the Agency offices, and reducing in force as necessary to do so. With the withdrawal of funds, personnel who had been paid with these funds became the obligation of the remaining Element 65 and Element 64 budgets. Approximately 100 professionally salaried positions were involved to some degree.

This effect was somewhat unique to the Navajo Area , although possibly true of Phoenix and Aberdeen Areas to some extent. These Areas have large dispersed rural facilities, and few commercial contractors available for contracted repair & maintenance services to these facilities, and have developed permanent staffs of skilled craftsmen in order to be able to deliver services needed. No provision was made in making budget changes to reduce this force of skilled labor. In fact, because of its recent reorganization, Navajo Area's initial telephone request to reduce in force was met with consternation by Central Office personnel with the comment, "but you just reorganized last year!". Two formal requests for authority to reduce in force (attached) were sent forward, and referred to the Steering Committee for decision. On June 27, 1980, a response was received, effectively cutting off this solution (attached). It authorizes only conversion of full time positions to career seasonal positions. OPM rules for this conversion require demonstration that a position is seasonal in nature, and most of these positions are not. They simply are not needed at all any more. The work they used to perform is now being performed as part of major projects by contract out of Albuquerque.

Immediately after receipt of the Steering Committee response, a meeting was called by the Area Director to seek means to avoid violation of the Anti-Deficiency Act with FY 80 3500 funds. Projections as of the same date using only obligations to date plus personnel obligations to the end of the year, forecast an over-obligation of as much as $2.26 million for the Area. This problem has yet to be resolved, and is being attacked by drastic emergency measures at both Area and Agency levels. All possible outstanding orders have been canceled. All re-imburseable accounts are being called in. All personnel are being placed on adverse action furlough without pay, beginning August 3rd, with approximately half the force being out in August, and the other half in September. Stores stocks on hand at the various Agencies are being pooled on an Area wide basis in order to make them last as long as possible. And services to schools and other facilities are reduced to a standstill. The personnel who will absorb virtually all the remaining budget are being kept busy at whatever jobs can be done with remaining materials and supplies. Painters are now working as carpenter assistants (the paint is gone, but there is still wood and nails). Heating Mechanics are now working as plumber's helpers. Locksmiths are reduced to making keys. And janitorial supplies are in critical shortage for the beginning of school in the fall.

With all these measures in place, figures available for the Eastern Navajo Agency indicate that there will still be a significant shortfall in that Agency (Area wide figures are still being accumulated, and are not available yet). Fuel costs are up 45% for FY 80 over FY 79, but fortunately fuel supplies on hand are sufficient to start school for the year. Forecasts available show the following situation:

Total Budget for Elements 64 and 65 for FY 80		$3,605,300
Projected over-obligation for Agency as of June 27		<1,024,366>
Savings from emergency measures:		
Cancellations of orders	194,330	
Emergency furlough savings	176,078	
Reimbursements (income)	132,812	
Misc.	15,851	
TOTAL SAVINGS	519,071	- 519,071
Remaining shortfall		505,295

This Agency may not be typical, but if it is then after all emergency measures have been taken, the Area will still be facing a major shortfall. When asked about this problem, Mr. Steele referred me to Mr. Babby in the Commissioner's office, as the person responsible to the Steering Committee for generating a solution to the problems described. Mr. Babby was unaware, when contacted by telephone, of the denial of reduction in force authority, and its effect on the Area Office, and was proceeding on the assumption that there will be enough surplus funds in other Areas of the Bureau to cover shortfalls. His time line for gathering this information for report to the Steering Committee is Aug. 10. He did not seem particularly concerned about the problem.

But Navajo Area schools are without facility maintenance services for the start of school this fall.

And no projection of the impact of this problem has been made for FY 81, although the Area Office has called attention to it. (requests attached). When asked about whether the FY 81 budget request included fuel cost increases, Mr. Steele indicated that he doubted it. His comment was that OMB does not accept percentage estimates of cost increases readily. It is assumed that these problems, if they actually occur, will be dealt with by supplemental requests!

THREATENED DEFUNDING OF BIA EDUCATION PROGRAMS FOR HANDICAPPED STUDENTS AND STUDENTS IN NEED OF COMPENSATORY EDUCATION

The Select Committee has taken an interest in the problem created for BIA teachers by the reduction of funding for some school programs under the ISEP funding formula, which has resulted in the conversion of a number of teacher positions from full time permanent employment status to career seasonal employment status, and the furloughing of these teachers for the summer months in order to reduce school salary budgets. The desire to limit the impact of programmatic and funding pattern changes which result from implementation of P.L. 95-561 upon BIA personnel is understandable. Such a desire motivated the inclusion of phase-in provisions in the ISEP, and the extension of the protection of these provisions offered by the Kildee amendment to 561. Because of the Committee's concern in this area, we are bringing other, more serious and more drastic threats to BIA teacher security, and to significant programs of the BIA for Indian children, to the Committee's attention.

The House Appropriations Committee Report (96-374) for the Interior and Related Agencies Appropriations Bill for FY 80 contained language indicating its intention not to place specific limitations on the amounts to be expended for travel by BIA Education in FY 80, due to the recent enactment of P.L. 95-561, and P.L. 95-471, and Bureau reorganization which impose increased travel requirements on the BIA. Subsequently, however, in the Legislative Branch Appropriations Bill (P.L. 96-86) the Congress enacted a provision requiring a total reduction of $500 million in executive branch travel below the amounts budgeted for FY 80, and assigning responsibility for allocating the reduction to the departments (etc.) of the executive branch to the OMB. Subsequently, OMB translated this action (in OMB Bulletin 80-3) into a requirement that all executive departments (etc) reduce obligations in object classes 21 (travel & transportation of persons), and 22 (transportation of things) by 8%, and report quarterly on their success in implementing a plan to do so.

In implementing its plan to meet the 8% travel reduction allotment, the Department of the Interior, and the BIA within it, decided to apply the 8% reduction to all travel within the BIA equally, and has included within this application the travel which is performed under "flow through" grants from the Department of Education. Its intention to do so was communicated to the BIA's Office of Indian Education Programs in memoranda on April 4 and a later date unknown (attached) and orally at meetings which interpreted these memoranda.

The late announcement date (half-way through the fiscal year), coupled with the unusual travel demands upon BIA Education anticipated in the House Appropriations Report due to implementation of P.L. 95-561, combined to leave the OIEP already near or in excess of its annual travel limitation at the time the notice was received, and required severe cut-backs in travel immediately. On July 3, all control of OIEP travel was removed to the office of the Assistant Secretary, with a requirement of Secretarial approval for all requests. This directive effectively chains all Education employees to their desks for the remainder of the year. (attached)

Each executive department clearly has the option to allocate its total travel reduction as desired among the program accounts under its appropriation in the President's budget. But flow-through funds administered by Interior on behalf of Indians are not part of its appropriaton. They are appropriated to other departments of the executive branch. The 8% travel reduction allotment of these departments is their own responsibility under the requirements of the Act and of OMB Bulletin 80-3. They have already filed plans with OMB for this purpose, and are implementing and reporting the reductions in compliance with the Bulletin.

The organization of the Department of Education concentrates all travel for officers and employees of the executive branch for its programs into its "Salaries and Expenses" budget account, and forbids the use of its remaining "program" funds for these purposes in any way. "Program" funds are all expended through grants or contracts with States and other agencies for direct program operation, in accordance with agreements and grant award documents. Travel incidental to such awards is not part of the President's Budget for these programs, either at the departmental level, or at the grant or contract award level. It is not subject to the travel reduction requirement because that requirement has already been met (in plan), or is being met (in implementation) by the department as a whole through reductions in its "Salaries and Expenses" travel budgets, in keeping with the Department's option to allocate its total travel reduction as desired among the program accounts under its appropriation in the President's budget. It is not a prerogative or duty of the grantee agency to realize further reductions in travel as part of the grant, and certainly the Department of Education cannot accept a voluntary reduction in travel, in order to meet the grantee's 8% quota for reductions, as a legitimate reason for the grantee's failure to carry out the provisions of the grant agreements and awards.

Yet this is just what BIA has precipitated. By the timing of its announcements of the application of the travel reduction to "all" BIA programs; by its attempt to take credit for reductions in flow-through program travel against its 8% total department quota; and by its Draconian measures in enforcing travel restrictions on the BIA's Education programs, it has prevented these programs from being properly administered, and is forcing them into non-compliance with Department of Education regulations, the BIA's State Plan for administration of these programs, and the Department's own Memorandum of Agreement with the Secretary of Education for administering them.

The Assistant Secretary for Indian Affairs has already received a direct warning from the Office of Special Educaton that they will "not be able to recommend continued funding" of P.L. 94-142 BIA programs for Handicapped Indian children (attached). Oral warnings of similar action by the Office of Compensatory Education have been received by OIEP personnel, and confirmed to us, regarding continued funding of the Title I program. Title I projects in the field are either being refused funding, or are being funded on carry-over funds from the past fiscal year only for essential salaries to start up in August and September, in order to "buy time" for resolution of the problem. But as late as yesterday evening no assurance could be gained from any responsible party at the Bureau from Secretary Fredrick's staff down, that any solution was on the way.

In the meantime, the Dept. of Education is aware that the Department of Interior has exempted one of its own programs (YACC/YCC Youth Program) from the travel ceiling, to permit monitoring, evaluation, and safety inspections. This inconsistency does not set well! (attached July 11 memo)

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

APR 04 1980

Memorandum

To: Area Directors
Central Office Directors
Project Officer, [illegible] Administrative Office
Director, Office of Technical Assistance and Training

From: Commissioner of Indian Affairs

Subject: Travel Limitations for Fiscal Year [illegible]

The Bureau is currently operating under a $2[illegible] million travel limitation for Fiscal Year 1980, which is being monitored quarterly by the Department and OMB. This travel limitation has been applied to all Bureau appropriations for Object Class 21 (Travel and Transportation of Persons) and Object Class 22 (Transportation of Things), and is reflected in the attached listing for each Area and the Central Office.

Comparisons have been made of the February 29, 1980, Bureau-wide [illegible] and the current limitations for the three major appropriations (Operation of Indian Programs, Construction, and Road Construction). The [illegible] for each appropriation is as follows:

	Object Class 21	Object Class 22
Operation of Indian Programs	[illegible]	[illegible]
Construction	[illegible]	[illegible]
Road Construction	[illegible]	[illegible]

The President and Congress are very concerned about the costs [illegible] travel. Of particular concern is administrative travel. I share this concern and urge each Director to establish appropriate controls and [illegible] to reduce costs of all travel, such as utilizing GSA vehicles in lieu of commercial vehicles; eliminating one-day trips; and reducing the number of single purpose trips where possible. Persons responsible for the [illegible] task force groups are to schedule meetings at locations which would be of least cost to the Bureau. I also wish to emphasize the need to reduce the number of Bureau-wide meetings to those absolutely essential to the [illegible] of the Bureau.

BEST COPY AVAILABLE

The Department has petitioned OMB for some relief to the present travel limitation, such as the exclusion of rental of GSA vehicles. At the present time, however, no word has been received of any exclusions to the travel limitation.

I'm counting on your cooperation to maintain the obligations for travel within the limitation available to your Directorate for this fiscal year.

William Hallett

Enclosure

BEST COPY AVAILABLE

TRAVEL AND TRANSPORTATION OF PERSONS

Object Class 21 and 27

EMPLOYEE TRAVEL

Non Govt	Govt	
21A	21J	Attendance or participation at conferences, meetings, or symposia of organizations
21B	21K	Attendance at training courses that are not specific requirements for job performance
21C	21L	Visits to field offices for general surveillance of their operatio
21D	21M	Routine or periodic trips to attend staff meetings
21E	21P	Familiarization trips for new employees
21F	21R	Travel to staff retreats
21G	21S	Travel of overhead personnel charged to specific projects
21H	21T	All other travel not directly related and essential to performance of program or mission
21Y	21V	Relocation of employees and families
21R	21X	All other travel and transportation of persons mission/program oriented
21Z	21W	Attendance or participation at conference and meetings directly related and essential to performance of program or mission

NON-BUREAU EMPLOYEE TRAVEL

27A	27J	Travel and transportation of tribal officials, employees and delegates
27B	27K	Travel and transportation of other Federal Agencies employees
27C	27L	All other non-employee travel and transportation
27D	27M	Day-to-day bus transportation of pupils to and from school
27E	27N	Travel and transportation of pupils for academic field trip activities
7G	27P	Travel and transportation of pupils to and from home at beginni and ending of school term
7H	27R	Travel and transportation of pupils for recreational activities (NOTE: Travel costs for employees, such as teachers, [illegible] etc., associated with the pupil transportation categories above, should be recorded as part of the pupil transportation [illegible]
7F		GSA Vehicle Rental

BEST COPY AVAILABLE

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Memorandum

To: Area Directors
Central Office Directors
Director, OTAT
Area Education Program Administrators
Agency School Superintendents

Through: Commissioner of Indian Affairs
Director, Office of Indian Education Earl J. Barlow

From: Assistant Secretary - Indian Affairs

Subject: FY 1980 Travel Restrictions

In accordance with Section 112 of Public Law 96-86, approved October 12, 1979 (see copy attached), and the subsequent Office of Management and Budget (OMB) Bulletin 80-3, dated November 16, 1979, it has been necessary to impose travel restrictions on all travel regardless of source of funds.

Transmitted with the memorandum from the Commissioner, dated April 4, 1980, were the travel limitations for FY 1980 for all appropriations identified in the FY 1980 Budget Appendix for the Bureau of Indian Affairs.

The travel limitations are based upon a $20,514,000 allocation for the Bureau of Indian Affairs, which was made by the Department based upon an 8 percent mandated reduction Departmentwide. You may allocate your total travel limitation (Object Classes 21 and 22) by any account/object class mix which produces the most efficient results.

A report of Bureau planned travel and transportation obligations and subsequent quarterly reports of actual obligations against planned are required by the Department. The report of planned obligations, as approved by OMB, constitutes a legal limitation on obligations, i.e., obligations exceeding the plan constitutes a violation of the Anti-Deficiency Act (31 U.S.C. 665(e).

Each Director is requested to establish a travel policy coordinator responsible for developing and implementing initiatives for use in planning all travel and a system of monitoring obligations. The following are guidelines in establishing controls on travel. Effective immediately, the Commissioner will approve all travel performed by the

Central Office and Area Directors. Travel performed by the Area Education Program Administrators will be approved by the Central Office Director, Office of Indian Education Programs. All non-essential travel must be eliminated. Essential travel must be managed and controlled to maximize benefits from travel funds. Limit the number of trips; number of individuals traveling; itineraries; and duration of travel to the least number to accomplish the mission. To the extent possible, and when most economical, schedule multi-purpose trips, and schedule trips to more than one location without returning to the duty station. Where possible, negotiate with Areas to utilize personnel with technical expertise from those Areas which are of closer proximity rather than requesting personnel from the Central Office, Washington, D. C.

We realize the detrimental effect the strict travel controls are having on the Bureau's ability to expend appropriated monies, as justified, and, at the same time, provide the required services to the Indian people. We will continue to appeal to the Department for relief to the travel limitations. No relief is in the offing at the present time, however.

To maintain the obligations within the limitation imposed will require the combined cooperation of all personnel, Education and non-Education.

I expect each of you to work together to insure that the limitations on travel are not exceeded.

Attachment

EXCERPT FROM HOUSE JOINT RESOLUTION 412 (P.L. 96-86)

SEC. 112. During the fiscal year ending on September 30, 1980, the total amount which may be obligated to travel and transportation of persons, and transportation of things, for officers and employees of the executive branch of the Government shall not exceed an amount which is $500,000,000 less than the total amount proposed therefor in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under Section 201 of the Budget and Accounting Act, 1921. The Director of the Office of Management and Budget shall allocate the reduction in such proposed total amount among the departments, agencies, and instrumentalities of the executive branch and shall report on such allocation to the Committees on Appropriations of the House of Representatives and the Senate: Provided, that in allocating the reduction in such proposed total amount among the departments, agencies, and instrumentalitites of the executive branch, no reduction shall be made in funds for debt collection or supervision of loans, nor shall any department, agency or instrumentality be reduced by more than fifteen per centum of the amount proposed for each such department, agency, or instrumentality in the Budget of the United States Government for such fiscal year (as amended and supplemented), transmitted by the President under section 201 of the Budget and Accounting Act, 1921.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

JUL 3 1980

Memorandum

To: Director, Office of Indian Education Programs

From: Acting Deputy Assistant Secretary - Indian Affairs

Subject: Approval of Travel Authorizations

Effective immediately, all requests for travel to be undertaken by any employee in the Office of Indian Education Programs will be submitted to the Assistant Secretary - Indian Affairs for action.

As the Office of Indian Education Programs has already exceeded its FY 1980 travel limitation, only the most urgent requests for travel shall be considered and submitted to this office for approval.

All general travel authorizations are to be cancelled, and all single-trip authorizations covering travel not yet completed are to be reviewed immediately. A list of single trip authorizations currently in effect showing traveller, place of travel, purpose of travel, and dollar amount obligated is to be submitted to this office by July 11. This list shall include all persons currently on temporary detail assignment, and shall show the employee's permanent duty station, the temporary duty station, and the expiration date of the detail.

You are to notify all field education officials of this directive and direct that action be taken immediately to curtail travel.

Ralph L Reeser

SPECIAL

7-21-80

OFFICE OF THE SECRETARY OF EDUCATION
ASSISTANT SECRETARY FOR SPECIAL EDUCATION AND REHABILITATIVE SERVICES
400 MARYLAND AVENUE, S.W. WASHINGTON, D.C. 20202

July 16-1980

Mr. Thomas Fredericks
Assistant Secretary of Indian Affairs
Office of the Secretary
Department of the Interior
1951 Constitution Avenue, N.W.
Washington, D.C. 20245

Dear Mr. Fredericks:

It is our understanding that a budgetary travel ceiling has been imposed across all Department of the Interior programs, including the exceptional child education program, which receives funds through P.L. 94-142, Education for All Handicapped Children Act, administered by this office. The imposition of such a ceiling relative to the implementation of the P.L. 94-142 at this time, may have critical consequences in terms of continued funding under this law.

In our letter of June 26, 1980 to Assistant Secretary Mills, we emphasized the concerns of this office with respect to corrective actions resulting from our program administrative reviews that have gone unattended for the past year. Key areas of these concerns are agency responsibility for all education programs and program monitoring. Travel restrictions would make monitoring impossible, and agency responsibility and leadership would be clearly weakened, if not substantially discredited.

I would assume some procedure must exist to appeal or review a budgetary action that would jeopardize Bureau of Indian Affairs continued participation in the P.L. 94-142 program.

If I have misstated the facts in this matter, please let me know. I would be interested in knowing if you have explored the possibility of appealing this budgetary action action or, if you have, receiving documentation of your efforts to reverse this action. Until it can be assured that the Bureau of Indian Affairs can fulfill its monitoring and supervision functions for handicapped children we will not be able to recommend continued funding.

Please do not hesitate to contact us, if there are any questions on this matter.

Sincerely,

William Halloran

William Halloran
Chief, Central Section
Office of Special Education

cc: Commissioner William Hallet
Mr. Earl Barlow
Dr. Charles Cordova
Mr. Jack Jones

BEST COPY AVAILABLE

THE COUNCIL FOR EXCEPTIONAL CHILDREN

June 13, 1980

The Honorable Robert C. Byrd, Chairman
U.S. Senate Appropriations Committee
Subcommittee on Interior
133 Russell Senate Office Building
Washington, DC 20510

Dear Mr. Chairman:

We are writing to bring to your attention a matter which, if not corrected, could have a detrimental effect upon the Bureau of Indian Affairs (BIA) special education program for the remainder of this as well as future fiscal years. It is our understanding that the Department of the Interior (DOI) and the BIA, in reducing their travel ceilings as required by Section 112 of P.L. 96-88 and a subsequent Office of Management and Budget directive, have imposed travel restrictions on all Bureau education travel regardless of the source of these funds. While we can appreciate the Congress's as well [illegible] the Executive Branch's concern and efforts to reduce administrative trav[illegible]e feel that the inclusion of flow-through funds from the Education Department for the education of handicapped (P.L. 94-142) and disadvantaged (Title I of ESEA) students within the Bureau's travel ceiling is inappropriate and completely ignores the intent and requirements of these programs.

As you well know, Mr. Chairman, under The Education for All Handicapped Children Act, P.L. 94-142, the Secretary of the Interior receives funding for the education of Indian and Alaska Native handicapped children and youth based on an approved state plan. Among the administrative responsibilities required by the Act are extensive monitoring and evaluation activities on the part of the BIA Office of Indian Education Programs. Other requirements that in most instances involve some degree of travel given the geographic vastness that characterizes the Bureau school system include child identification activities, interagency cooperation, inservice training and maintaining the Bureau Advisory Committee for Exceptional Children. We find it especially distressing, particularly in view of U.S. General Accounting Office reports as well as other accounts calling attention to BIA special education inadequacies, that the Department and the Bureau would adopt a restriction that in essence makes it impossible for the BIA to carry out its responsibilities under P.L. 94-142 to insure that an appropriate education is available to all Indian and Alaska Native handicapped children.

We might also add that while reduced travel ceilings at this time of year may not impose an undue hardship on federal agencies, this is not the case for the BIA school program. Unlike other federal programs, the end of the fiscal year is an extremely busy time for the Bureau since a new school year begins in late August or early September. This necessarily involves many of the aforementioned activities as the BIA prepares for the opening and conducts the first few weeks of school. Because of these problems, we would urge the Committee to:

BEST COPY AVAILABLE

- Communicate with the Secretary of the Interior regarding the need to exempt Education Department flow-through funds, i.e., P.L. 94-142, Title I and Title IV, from DOI and BIA appropriated travel ceilings for the remaining three and a half months of the FY 80 fiscal year.

- Exempt flow-through funds from the Education Department, i.e., P.L. 94-142, Title I and Title IV, from the BIA appropriated travel ceilings in the report accompanying the FY 81 Appropriations Bill for the Department of the Interior and Related Agencies.

Once again, Mr. Chairman, we are asking the Committee to continue its oversight so that Congressional initiatives, when implemented by the Executive Branch, do not impact negatively on the progress that has been achieved to date with regard to the education of Indian and Alaska Native handicapped children. If we can provide further information on this matter, please do not hesitate to contact us. We thank you in advance for your consideration of this matter.

Sincerely,

Frederick J. Weintraub

Frederick J. Weintraub
Assistant Executive Director
for Governmental Relations

Bruce A. Ramirez
Specialist for Policy
Implementation

FJW/BAR/sp

cc: Al Cissell
Betty Griffin

BEST COPY AVAILABLE

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:
Tribal Planning Services
YACC/YCC Youth Programs

Memorandum JUL 1 1 1980

To: Area Directors
Director, Office of Indian Services

From: Acting Deputy Commissioner

Subject: Travel of Youth Programs Staff (YACC/YCC)

The YACC/YCC staff in the Bureau of Indian Affairs are exempt from the travel restrictions placed on regular Bureau personnel.

The YACC/YCC staff operate over 90 youth camps throughout Indian Country and are responsible for the safety of over 3,000 enrollees working at these camps. It is essential that they have the freedom to travel to the camp sites for monitoring, evaluation and safety inspections. The YCC in particular operates only during the summer months and needs constant monitoring. There are 63 YCC camps in the Bureau program. Since this is a Departmentally funded activity, all travel is subject to the Departmental ceiling - not the Bureau's.

Please see that travel authorizations for YACC/YCC staff and Bureau safety officers traveling under youth programs funding are processed without delay. Our prime concern is a safe, efficient program for our Indian youth.

If there are any restrictions placed on travel by the Department, you will be advised by the Administrator, YACC/YCC in Central Office.

BEST COPY AVAILABLE

RECOMMENDATIONS REGARDING TRAVEL RESTRICTIONS ON BIA EDUCATION AND FLOW THROUGH EDUCATION PROGRAMS FOR INDIAN STUDENTS.

That the Select Committee exercise oversight to assure that the BIA and Department of Interior do not violate Department of Education regulations or agreements regarding flow-through educational programs for Indian children in their application of travel restrictions and reductions to BIA Office of Indian Eduation Programs in FY 80.

That the Select Committee interceed as necessary in any future application of across-the-board travel or other operational restrictions in Federal government programs, to assure that BIA Education programs are protected against unrealistic constraints

That the Select Committee institute a study to determine whether the BIA should be required by law to separate its direct program services to Indian tirbes and people from its salaries and expenses for executive department officers and employees, in a manner consistent with that now used by the Department of Education, exempting the direct program services from such constraints upon executive department officers and employees as the current travel ceiling and reduction.

RECOMMENDATIONS REGARDING TRAVEL RESTRICTIONS ON BIA EDUCATION AND FLOW THROUGH EDUCATION PROGRAMS FOR INDIAN STUDENTS.

That the Select Committee exercise oversight to assure that the BIA and Department of Interior do not violate Department of Education regulations or agreements regarding flow-through educational programs for Indian children in their application of travel restrictions and reductions to BIA Office of Indian Eduation Programs in FY 80.

That the Select Committee interceed as necessary in any future application of across-the-board travel or other operational restrictions in Federal government programs, to assure that BIA Education programs are protected against unrealistic constraints

That the Select Committee institute a study to determine whether the BIA should be required by law to separate its direct program services to Indian tirbes and people from its salaries and expenses for executive department officers and employees, in a manner consistent with that now used by the Department of Education, exempting the direct program services from such constraints upon executive department officers and employees as the current travel ceiling and reduction.

REVIEW OF OPERATIONS AND MAINTENANCE FUNDING PROBLEMS CONFRONTING PREVIOUSLY PRIVATE CONTRACT SCHOOLS

Public law 93-638 directs the Secretary of the Interior, on the request of any Indian tribe, to contract with any tribal organization to plan, conduct, and administer any program or portion thereof which the Secretary is authorized to administer for the benefit of Indians. Implementing Regulations for this law define "all or parts of any program" to include "operation of, or services provided by, previously private schools", and further define this term. Under this authority the BIA now funds a number of contract schools. The BIA has not, however, provided facility operation and maintenance (O&M) support services for these schools apart from the school operations (budget activity 3100) funding provided through the Office of Indian Education Programs. A variety of reasons have been advanced over a period of time for BIA refusal to do so.

The attached memorandum (Actg. Asst. Secy.- Policy, Budget & Admin/ to Asst. Secy.- Indian Affairs, approx. April 23, 1980) states the current position taken by Interior and BIA Budget and Finance officials. It holds that prior to FY 81 the funds for previously private contract schools were a separate line item in the BIA budget; that amounts budgeted therein were "intended" to cover both the school operations and facility O&M costs of these schools; and that a $2 million increase in these funds from FY 79 to FY 80 was specifically for this O&M purpose in the FY 80 budget justifications.

An examination of these justification documents reveals that the increase was due to several new schools projected for this category of funding in FY 80. The schools marked as new in the list account for more than $2 million, and we can find no mention in the justification of facility O&M costs.

On the basis of this claim, however, the memorandum holds that use of BIA Facility Management (budget activity 3500) funds to provide facility operation and maintenance for these schools would violate the "Appropriations Subcommittees' guidelines on reprogramming of funds". It then proposes what appears to be a real violation of these guidelines by requiring the reprogramming of FY 80 3100 funds into 3500 to provide for these services, without "formal reprogramming action".

This position is currently being supported by the auxillary argument that in FY 77 the BIA established funding levels for the appropriations request for these schools on the basis of a "formula" consisting of 125% of the then current State Average Per-Pupil Expenditure (SAPPE) in the States in which these schools were located. They now hold that, since the SAPPE included operations and maintenance of physical facilities, the funds appropriated for these school operations in FY 80 also must include facility O&M funds.

These arguments totally ignore the fact that in October of 1979 the Secretary of Interior published final Regulations completely revising the basis for funding of all BIA and contract schools to provide for equitable student-based funding, at Congressional mandate. These regulations establish an interim FY 80 O&M fund for contract schools, in budget activity 3500 itself, and require distribution of the moneys in this fund directly to these schools for O&M services in support of the 3100 contract operations there. They further require the Assistant Secretary for Indian Affairs to provide for full funding of the O&M costs of these schools by FY 81.

The actions of these BIA and Interior officials simply defy the clear requirements of these published Federal regulations implementing the Congressional mandate. They appeal to some presumed requirement of the Appropriations Committees as the basis for their action.

In consequence, in order to secure some relief from the arbitrary position taken by these officials, and to remove their justification for it, we request that the Appropriations Committees include clear authorization and requirements in their current Committee reports directing the Secretary of the Interior to carry out the provisions of the P.L. 95-561 Indian School Equalization Program Regulations at 31h.140 through 31h.143 with funds appropriated for budget activity 3500 for FY 80 and FY 81 april 23

UNITED STATES DEPARTMENT OF THE INTERIOR

Office of the Secretary
Washington, D.C.

Memorandum

[illegible]

To: Assistant Secretary - Indian Affairs

From: Acting Assistant Secretary - Policy, Budget and Administration

Subject: Facilities Management Reprogramming

You have proposed reprogramming in 1980 from the facilities management subactivity $2 million to provide for the operation and maintenance (O/M) of the plant facilities used by previously private schools. The funds to be reprogrammed were originally budgeted to operate and maintain Bureau school facilities. Your proposal would reduce the facilities management budgets of all Bureau schools proportionately in order to minimize the impact of the $2 million reduction.

As we understand the situation, these previously private schools are operated by tribes under contract with the Bureau. Prior to P.L. 95-561 and the fiscal year 1981 budget, the Bureau included funds for contract schools in its budget as a separate line item under the School Operations subactivity. The amounts so budgeted were intended to fund both school operations and facilities management activities through a single contract with each school. Appropriations for this purpose totaled $10.8 million in 1980, an increase of $2 million over the 1979 level. Following the 1980 budget cycle, the P.L. 95-561 implementing regulations which, among other things, govern the distribution of funds available for school operations became effective. Those regulations do not allow funding O/M costs from the school operations subactivity. Thus, we understand the Bureau plans to distribute according to the P.L. 95-561 formula the full amount appropriated under school operations for 1980 even though that amount includes $2 million requested and justified for contract school O/M. Your reprogramming proposal would then move another $2 million to cover the O/M expenses of contract schools.

research!

We think this is inappropriate and, in fact, would even constitute a violation of the Appropriations Subcommittees' guidelines on the reprogramming of funds. Instead the funds which were requested and appropriated for maintaining the contract schools should be set apart from the funds to be distributed under the formula and reprogrammed to facilities management to be used for the purpose intended. Since, in this case, the funds would be expended for the purpose justified no formal reprogramming action is necessary. You should take the steps required to insure the funds are made available to the contract schools for operation and maintenance.

the phase-in provision detailed in § 31h.19.

§ 31h.131 Addition of pre-kindergarten as a weight factor to the Indian School Equalization Formula in fiscal year 1982.

The Director, in consultation with the tribes and school boards, shall determine appropriate weight factors needed to include pre-kindergarten programs in the Indian School Equalization Formula in fiscal year 1982. Based on a needs assessment, to be completed by January 1, 1980, pre-kindergarten programs shall be included in the Bureau's education request for fiscal year 1982.

Subpart L—Contract School Operation and Maintenance Fund

§ 31h.140 Definitions.

Contract school operation and maintenance costs for fiscal year 1979 means the sum of costs for custodial salaries and fringe benefits, related supplies and equipment and equipment repair, insurance, and school operation utilities costs, where such costs are not paid by the Division of Facilities Management or other noneducation Bureau sources.

§ 31h.141 Establishment of an interim fiscal year 1980 operation and maintenance fund for contract schools.

There is established in the Division of Facilities Management a separate fund entitled the Contract School Operation and Maintenance Fund. The Secretary shall cause the distribution of an amount of $2.5 million, under the fiscal year 1980 appropriation for the Bureau, from budget activity 3300, "General Management and Facilities Operations", to the schools through this fund and shall create an appropriate account or subaccount for the Contract School Operation and Maintenance Fund.

§ 31h.142 Distribution of funds.

(a) Each contract school shall receive in fiscal year 1980 a portion of the Contract School Operation and Maintenance Fund determined by the percentage share which that school's fiscal year 1979 operation and maintenance cost represents in the total fiscal year 1979 operation and maintenance cost for all such schools.

(b) To be eligible for these funds, a contract school shall submit a detailed report of actual operation and maintenance costs for fiscal year 1979 to the Director by November 23, 1979. These cost figures will be subject to verification by the Director to assure their accuracy prior to the allotment of any funds under this subpart.

(c) Any funds generated under this subpart shall be included in the computation of the phase-in amount as set forth in § 31h.19 if supplemental operation and maintenance funds were included in a school's fiscal year 1979 3100 contract funds.

§ 31h.143 Future consideration of contract school operation and maintenance funding.

The Assistant Secretary shall arrange for full funding for operation and maintenance of contract schools by fiscal year 1981.

October 18, 1979.

Forrest J. Gerard,

Assistant Secretary, Indian Affairs.

[FR Doc. 79-32870 Filed 10-25-79 8:45 am]

BILLING CODE 4310-02-M

Senator HATFIELD. Please continue.

STATEMENT OF JOSEPH DUPRIS, EXECUTIVE DIRECTOR, COALITION OF INDIAN CONTROLLED SCHOOL BOARDS

Mr. DUPRIS. Mr. Chairman, we have a number of items to address. I have 21 of them which are covered in our formal testimony. We will summarize our issues succintly and we have specific items related to four major specific issues that we believe are important for you to hear now.

We will present those and have presented them to the committee staff. I would like to address a couple of other items which are of critical importance, but I will do so very briefly. Then my other colleagues will also address issues briefly.

As I said, my name is Joseph Dupris. I am the executive director of the Coalition of Indian Controlled School Boards. I am a Cheyenne River Sioux. I have been executive director for the coalition for the last 3 years.

The issues that we have before us related to Bureau of Indian Affairs education are many—as I said, 21. The coalition, as an organization that is grassroots representing the contract schools and communities throughout the Nation related to Indian education, has consistently brought forth to Congress and to the agencies issues which we feel are of critical importance.

I would like to bring up an issue relating to 874, which was mentioned, Johnson-O'Malley and new school startups. Currently, we understand, there is a possibility that Johnson-O'Malley basic support will not continue. That was a decision that was made, has been reviewed, and it will probably not be reinstated.

Also, 874 funding for public schools has a provision in the new law, 95–561, title XI, part A, which allows for a public school to work with the tribes and the Indian communities. If they cannot work with them and cannot work out a reasonable Indian education needs statement, and provisions for equal educational opportunity, then the tribe has the ability to remove itself from that public school and start a contract school, or send its children to the BIA schools.

In this instance, there has been no planning for any new startups. There is no money that has been put aside related to these. There is no technical assistance, no legal assistance, to convert from public schools to contract schools.

In addition to that, there are some 10 schools that are affected by Johnson-O'Malley basic, some of those in Nebraska, which also face the possibility of discontinuance of their public school funding and going to contract schools. That too has not been provided for in the 1981 budget.

We suggest and recommend that minimally 10 to 15 new schools' funding be placed into the implementation set-aside so that other schools that currently exist and are funded by the implementation formula will not be impacted adversely.

In addition to the problem related to the formula funding and the absence of planning for new school startups in a larger sense, there is a circumvention of the statute, 95–561, title XI, part B, section 1122. That speaks to educational standards.

Educational standards can be waived by the tribes. As such, when educational standards are put forth by the Bureau—we hope soon—

193

then the tribes will examine those standards and determine whether or not they will function with them, particularly in contract schools.

However, in formula funding design, standards are being placed into the formula and are then being applied without review to schools. An example of the problem is the Shiprock Alternative School which was denied funding because of standards placed into the formula.

In section 1122, part (e), the tribes may waive these standards. In this instance, the tribe could exercise its rights to waive it and then become a fully funded school. This has not been permitted and there are some circumventions of the rules and regulations by Bureau staff which preclude the exercise of this waiver right.

We would like to have this examined and overturned and heavily overseen in the sense of providing for those rights, so that the implementation of a contract school can be well effected by the tribal community.

I will touch upon one other item briefly. That is the technical assistance issue. In 874 the rules and regulations have not been produced by the Bureau for the transfer, again, as I said. Also, there has been no technical assistance available.

It is the position of the Bureau's Education Department that planning and technical assistance and legal assistance in the starting up of new schools is not available out of the implementation set-aside, or, at this time, any other place.

Section 1130, which emphasizes Indian control of Indian education, therefore cannot be implemented. If it cannot be implemented, then the Bureau is not functioning to the benefit of the Indian tribes and communities.

We would like to see oversight related to this, money placed into the Bureau funds someplace, or specific language in the appropriations or other statutes which would require the Bureau to function as it has in the past and allow for planning and technical assistance and legal assistance to be funded out of the implementation set-aside.

In summary, those are three major items that I wish to address now.

I would like to have Don Creamer proceed with the items which you have before you in written form.

Senator **Hatfield**. Please proceed Mr. Creamer.

STATEMENT OF DONALD CREAMER, ACTING DIRECTOR, BORREGO PASS SCHOOL

Mr. **Creamer**. Mr. Chairman, we are submitting written testimony on several major issues. I will simply comment on the testimony rather than try to review it in any great detail.

One of our concerns is the procedure for the development and payment of indirect costs for contract schools and for 93–638 contractors. The contract schools which now have indirect cost rates under the ratesetting procedures, established under 95–561. have been informed by the Government's own audit agency that these rates will bankrupt us.

This is formal information given to us. We have met with them. They have explained how it will drive us out of business in a period of years. It is based on some anomalies in the regulations which were developed in order to allow the Government to deal with private contractors.

Other agencies that have their own administrative costs have profits and other places from which to secure those funds.

We have been told that the major solution to this problem is for us to negotiate a lump sum indirect cost with the Bureau of Indian Affairs. This places control of our indirect cost funding in the hands of BIA contracting officers, instead of in the hands of an independent audit agency. We are really concerned, because we have played that game before.

Some of us who have been in the business for 7 or 8 years were there before we had indirect cost rates and before we had an independent auditor that established what our overhead needs were, so we are very concerned about that.

We are quite willing to negotiate lump sums, but there are no rules and regulations established for this yet. The Bureau of Indian Affairs is not prepared for it yet. They have not been budgeted for it in the Indian contract support funds to pick up the indirect costs that are currently being paid by agencies of the Government other than the Bureau.

Lump sum arrangements will require them to pay our entire indirect cost and not just the indirect costs of the BIA direct program that we have.

As a consequence, a number of things need to be done. The BIA needs to have sufficient funds budgeted, and we will communicate estimates of those funds for the contract schools nationwide to the Appropriations Committee. We have an appointment this afternoon with committee staff for that purpose.

The BIA needs to be given authority and direction to negotiate these lump sums and to develop a set of rules and regulations for them, and to cooperate with contract school organizations and tribes in developing procedures for negotiating them.

As a basis for that, accurate data need to be developed as to the actual indirect costs, or overhead costs, of the Bureau of Indian Affairs itself. The BIA does not know what they are spending for their own overhead costs, so comparable figures for us cannot be developed.

We do not yet know, and I do not think the BIA knows, what all of the overhead functions are that are provided to a BIA school, because those functions are scattered through BIA, the Department of the Interior, the Department of Justice, and heaven knows how many other places that a BIA school can call upon for overhead services.

As a consequence, we are asking that a formal GAO audit be made to identify these things, and we have prepared a list of the kinds of information which are needed about the overhead operations of the Bureau of Indian Affairs.

We are asking that consideration be given to the possibility that the BIA could separate its program and its overhead into different departments, as the Department of Education does, for example. Right now they are all commingled and you cannot tell what is program and what is overhead; what is administration and what is service to Indians.

There are also, among the contract schools, almost 66 percent of the schools that are required to take their administrative overhead out of their BIA formula allotment. The same money that in the other schools and in BIA schools is used to run educational programs must be expended to administer those programs by those schools.

We have prepared a list of all of the contract schools, marking those schools that now have rates and face the problem of converting to lump sum, and marking the other schools that have neither rates nor lump sums and are taking it out of their kids' education.

If the BIA negotiates lump sums with those of us who now have rates, they should negotiate lump sums with those of us who have no indirect cost funds from the Bureau or any other place right now. There are a large number of the previously private contract schools who are in that situation. Their problem needs attention.

Another major issue which we have backed our way into in dealing with the previously private schools is the fact that they have been on the same kind of basis with regard to their operations and maintenance of physical plant. The BIA operates and maintains the plant in the contract school where I work. In many other contract schools the BIA has provided no services.

The task force attempted to set up a procedure under which funds would be provided to those previously private schools for that purpose. It has taken nearly a year to get the money shaken loose. So far as I know, those schools have not yet seen the money, but we understand the problem has been broken loose, that the place in the budget where those funds had been appropriated has been identified, and that the money is coming through channels right now.

However, in investigating this problem we have come across a much larger problem that precipitated some of the confusion. The BIA's Branch of Facilities Management is in a drastic funding crisis right now because of the movement of about $4.6 million from the BIA's Branch of Facilities Management to a division in the Department of the Interior itself.

The Division of Facilities Improvement—or Facilities Construction and Operation Improvement in the Department of the Interior has under its supervision in the BIA's Division of Facilities Engineering at Albuquerque the construction and the major improvement programs and major repair programs that used to be under area offices. The area offices that have been most heavily hit by the movement of these funds are the Navajo area office, Phoenix area office, and Aberdeen.

These are areas where there are large numbers of contract schools. The movement of the funds was carried out without provision for reductions in force of the Federal employees who used to be paid by those funds.

This happened at the same time that fuel costs, dependent on those facilities maintenance budgets, skyrocketed. The net result is that the Navajo area woke up about half way through this fiscal year with the recognition that they were already overobligated by about $2.5 million for fiscal year 1980.

They requested RIF authority. They were denied it. They have been told that the only reduction in force they can make is to reduce permanent full-time employees to career-seasonal employees, and the type of employee that they were paying with these funds cannot be reduced to career-seasonal because the need for those employees is year round.

They have pulled out every emergency stop that can be pulled out, and they are now puting their employees on an emergency furlough basis—an adverse action furlough—wherein the employees are simply being layed off on 30 days' notice for 30 days, which is the maximum that can be done under that procedure to a Federal employee.

Half of the facility management labor force for the Navajo area will be off in the month of August. The other half will be off in the month of September. Those that remain on have nothing to work with. No supplies have been laid in for next year, and we are faced with a genuine crisis in the facilities maintenance and operation of facilities in the Navajo area.

This is a beautiful illustration of the fact that the BIA is simply not prepared to deal with change, particularly budget change. In the 95–561 section on formula funding, the Bureau is required to develop a formula for the operation and maintenance of schools and to fund those schools directly for operation and maintenance.

We have information in the written testimony that Mr. Dick Steele at the Facilities Improvement Office under the Interior is actively developing the data for that formula. We are about 18 months away from the possibility that we could have a formula developed, and the BIA is making no moves whatever to take care of the personnel from whom the formula will remove their jobs, because the formula will give the money to the schools, not to the Branch of Facilities Management.

Nobody seems to see that coming, and we have seen drastic disorganization in the current BIA structure by the movement of a very small portion of their facilities maintenance budget this year. We call your attention to that.

There is a great deal of oversight that needs to be done of this kind of development for the Bureau.

Senator **Hatfield**. Mr. Creamer, I wonder if you will kind of wind up your testimony, because we have so many more here. I will be called to the floor shortly and I would like to give the opportunity to be heard to these other people too.

Mr. **Creamer**. I can stop it at this point, sir. That summarizes, pretty well, the written testimony that we have. We have a lot of data with it—that is, documentation of what is actually happening right now.

Senator **Hatfield**. Thank you.

Mr. **Creamer**. I call your attention to the fact that the BIA is about to lose its title I program and its handicap-action program over similar issues.

Senator **Hatfield**. Thank you.

Mr. Dupris?

Mr. **Dupris**. I would like to have Mary Helen Creamer speak now.

STATEMENT OF MARY HELEN CREAMER, ACTING DIRECTOR, ASSOCIATION OF NAVAJO COMMUNITY CONTROLLED SCHOOLS; AND ON BEHALF OF THE BORREGO PASS SCHOOL AND THE COALITION OF INDIAN CONTROLLED SCHOOL BOARDS

Mrs. **Creamer**. Mr. Chairman, I am the acting director of the Association of Navajo Community Controlled School Boards. It was established to try to solve problems and attend to common needs by mutual effort, for keeping each other informed, and supporting one another.

One of the major problems that we have encountered recently is the indirect cost rates versus the lump sum matter. Without any forewarning or any kind of procedures set up, we were required to negotiate funds as a lump sum.

This created, in the schools, extreme uneasiness in the operation of the schools. To the best of our knowledge, no one is taking responsibility to resolve the problem or is setting up any procedures by which we can negotiate.

It is our recommendation that something be done; that we be given some kind of funds that, by mutual effort with the contract schools' representatives, and perhaps with BIA and OIG, we may set up some kind of a rule by which we can negotiate.

According to the Navajo area 93–638 officer, they were dependent on the OIG to set up the regulations and until regulations have been set up by OIG they were not in a position to set up regulations.

On the other hand, we understand that the OIG's position is that they have no authority to set up regulations for BIA, so I do not know where we stand right now.

On the indirect costs, we were also told that 91 percent of the Indian support funds to cover our indirect costs of overhead operations were limited, but we understood that it had been restored. The Navajo area 638 office is not aware of the restoration.

We have been constantly audited by the OIG every year for compliance. We recommend that the Bureau of Indian Affairs' indirect costs be identified and also be audited, not because we are audited every year but because of the need to identify overhead costs and to see about the comparability of our indirect costs to BIA indirect costs.

Also, in denying the funds on the basis of the standards issued in the formula funding, the regulation is very awkward and needs to be reviewed for correction. All of the regulations pertaining to standards of education should remain separate from the formula funding regulations.

As it is now, it sets contingencies for funding which we believe was not the intent of the law.

It creates real problems in the field to have someone come up and say that we are not in compliance with the regulations of formula funding. That is setting restrictions upon the local community school boards in hiring and management of the school program.

Because of the vast areas and isolation of Indian reservations, this kind of restriction in the BIA regulations is a real bind upon the schools, and here I make reference to our written testimony.

It is also hard to believe, but there is an old saying that the old guards are hard to change. That is still very true of the Bureau's personnel's attitude toward local Indian self-determination efforts. We must constantly fight to maintain community control efforts, because we strongly believe in self-determination.

It is not a fad with us. It is here to stay.

In our recommendations we ask that this select committee continue to support Indian efforts toward self-determination, because there is still much to be done on Indian reservations.

Thank you very much.

Senator **Hatfield**. Thank you, Mrs. Creamer.

STATEMENT OF GEORGE JIM, SECRETARY, ASSOCIATION OF NAVAJO COMMUNITY CONTROLLED SCHOOLS; AND PRESIDENT, BORREGO PASS SCHOOL BOARD

Mr. JIM. Mr. Chairman, I would like to express some of the concerns that we have at our school. Recently, we received a letter from the Inspector General pushing us to negotiate with the BIA for a lump sum to pay our overhead costs in fiscal year 1981, which begins in October.

Also, the contracting officer told us that there were not enough funds.

OIG cut the indirect cost rate for September 30, 1980.

We have another problem. That is that the Branch of Facilities Management informed us suddenly that they do not have any more funds for the materials to work with. They also informed us that we should lay off some of our employees at our school.

This indicates that it will be hard, if there is some emergency, to meet that emergency, or if there is a fire. If there were some kind of emergency, what would we do?

The Branch of Facilities Management under BIA used to provide janitor supplies. Now they say they do not have any more funds.

Also, title I was funded at $12,000 for this year, instead of $63,000 as planned.

We do not even know what to tell the staff that we hire. We do not even know what we can do for the children that are in remedial education.

We also have more than 10 handicapped students this year.

That is all. Thank you.

Senator HATFIELD. Thank you, Mr. Jim.

Mr. DUPRIS. We have with us the next panel, who are also members of the Coalition of Indian Controlled School Boards, Buzz LaPointe and Richard Bordeaux. We will move right on to them.

STATEMENT OF ENOCH "BUZZ" LaPOINTE, FEDERAL PROGRAMS COORDINATOR, MARTY INDIAN SCHOOL

Mr. LAPOINTE. Mr. Chairman and members of the Senate select committee, my name is Buzz LaPointe. My position is that of Federal programs coordinator for the Marty Indian School. I would like to introduce our superintendent, Mr. Richard Bordeaux.

We will not take much of your time. You have probably heard most of it. What we want to talk to you about are the O. & M. moneys—that is, operation and maintenance, specifically, as set out in the rules in section 31h.143 of the Federal rules, dated October 26, 1979.

We have not yet received the $230,000 which was allotted to the Marty Indian School for O. & M. moneys. What the Bureau is doing about that, we do not know.

Before we left to come to Washington, we did get some good news. That is, that somewhere the Bureau has decided to allot Marty those O. & M. moneys. Where they are getting the money, is not our problem. It is theirs.

Richard Bordeaux, our superintendent, will speak to that a bit more clearly.

STATEMENT OF RICHARD BORDEAUX, SUPERINTENDENT, MARTY INDIAN SCHOOL

Mr. Bordeaux. Thank you, Buzz. Senator, we will not take up much of your time.

When I came in here this morning, bright and early, I had about 25 pages of nice double-spaced testimony. Sitting here listening to everyone today, I have gradually crossed most of it out.

I would like to call your attention to the fourth page. Basically, this is what our testimony deals with. I would like to read those two top paragraphs. They are part of a letter that we wrote to Senators McGovern and Pressler, when we first started to inquire about O. & M. moneys. I will just read them.

> Since the Yankton Sioux Tribe assumed responsibilities for their own educational process, they have had many difficulties in securing adequate funding through contracts with the Bureau of Indian Affairs and other agencies. The tribe had always pushed for equality in funding levels with the federally funded Bureau of Indian Affairs schools. It has not been a reality.
>
> The major cause for this inequality in the past has been the fact that although federally funded BIA schools and contract schools' academic areas are funded at relatively the same rate, the contract schools must use a goodly percentage of their academic funds for operation and maintenance charges, whereas the federally funded BIA schools' operation and maintenance costs are picked up by the Division of Facilities Management.

This has been true for the past 5 years, since Marty has been in existence. This is what our contention is today.

We want the select committee to know that, as Buzz said, the money is coming for this year. But going into next year we are not sure that we are going to have our operation and maintenance moneys and may have to use a good percentage of our education moneys for operation and maintenance next year.

I always bring out a little thing about our BIA schools and contract schools as an example. It may seem small to you, but when I get a letter from a BIA school—they have a Government stamp in the righthand corner. It says "To be paid for by the U.S. Government." It costs our contract schools 15 cents to mail a letter.

With that 15 cents we could buy almost a pint of milk for one of the kids at school. The BIA schools still get to use the Government stamp.

That is just a little thing that I would like to throw in there to drive the point home a little bit more.

We will be in trouble for next year for operation and maintenance moneys. I think I do speak for the 27 other previously private schools who will also be in trouble next year.

Thank you.

Senator Hatfield. Without objection, your full testimony will be included in the hearing record at this point.

[The prepared statement follows. Testimony resumes on p. 209.]

Prepared Statement of Enoch LaPointe and Richard Bordeaux, Marty Indian School, Marty, S. Dak.

Mr. Chairman, members of the Subcommittee, my name is Enoch "Buzz" LaPointe. My position is that of Federal Programs Coordinator for the Marty Indian School. I would like to introduce Mr. Richard Bordeaux, Superintendent of Marty Indian School.

It is a privilege to be invited to be here today. Our concern is with the implementation of the allotment formula as set forth in the Education Amendments of 1978 (Public Law 95-561), and the subsequent Rules and Regulations, specifically Section 31h.143 of the Federal Rules dated October 26, 1979.

Marty Indian School is a "previously private" BIA contract school. On March 19, 1975, a legal agreement was signed between the Benedictine Order, housed at Blue Cloud Abbey in South Dakota and the Yankton Sioux Tribe, an educational complex worth seven to eight million dollars.

Marty Indian School is a tribally owned and operated school K through 12 grades. Marty has been owned and operated by the Indian people of the Yankton Sioux Tribe for five years. During these past five years our Indian people have become deeply interested in the education of their children.

Community involvement in and support of the school at Marty is a major factor in providing quality education for our youth as we see it. This exemplifies self-determination in its truest form.

Marty Indian School is owned by the Yankton Sioux Tribe. Through resolution the Yankton Sioux Tribe has delegated the authority and responsibility of directing and managing the school to the Marty School Board, Inc. This board is an elected all-Indian School Board and is chartered by the State of South Dakota. Besides managing the day-to-day operations at Marty Indian School, a large part of the board's time has been in securing sufficient funds to keep the school in operation and in seeking supplemental funding to continue to improve educational services for our Indian youth.

We have been fortunate during the past years to have received monies from the Bureau of Indian Affairs through 638 contracting, even though not as much as requested. We negotiated a basic support contract for school year 1974-1975 in the amount of $10,000. With the passage of Public Law 95-561 we did receive an allotment of $1,108,045 for school year 1979-1980. This sum was based on the allotment formula mandated in Public Law 95-561 and the subsequent Federal Rules and Regulations, October 26, 1979. We did enter into a contract with the Bureau of Indian Affairs for $822,054. $275,048 was set aside for the Operation and Maintenance of Marty Indian School. Please refer to attachment entitled Allotment Calculation Form. This amount of $275,048 was never a part of the contract as negotiated with the Bureau of Indian Affairs. This is the primary purpose of Mr. LaPointe's and my testimony before you today. Public Law 95-561 is a good act, probably the best that has affected Indian Education in schools like our's and especially at Marty Indian School. We can now offer quality education for our youth.

Even though we did not contract for the Operation and Maintenance Monies, we did receive a memorandum to the effect that we could plan on receiving these monies. A copy of this memorandum is attached. This funding for Operation and Maintenance had not materialized. We were placed in a dilemma which we are still in. We contacted our respective Senators. Letters are attached for the record, and I would like to read the letter we sent to Senators McGovern and Pressler.

We at Marty Indian School are again in a dilemma brought on at the expense of, or lack of expense as the case may be, of the Bureau of Indian Affairs (BIA).

For the sake of information and background the Marty Indian School Board is a state chartered non-profit corporation authorized by tribal resolution of the Yankton Sioux Tribe to provide educational opportunities for approximately 250 Indian students in grades K-12. Marty Indian School is situated seventy miles south of Mitchell and sixty miles east of Yankton.

In the vernacular of the BIA we are called a previously private (the Catholic Order of the Benedictines turned school and its land over to the Yankton Sioux Tribe in the summer of 1975) contract school (we contract yearly under Public Law 93-638 with the Bureau of Indian Affairs and other federal agencies to provide these educational services).

Since the Yankton Sioux Tribe assumed responsibilities for their own educational process, they have had many difficulties in securing adequate funding through contracts with the Bureau of Indian Affairs and other agencies. The tribe had always pushed for equality in funding levels with the federally funded Bureau of Indian Affairs. It has not been a reality.

The major cause for this inequality in the past has been the fact that although federally funded BIA schools and contract schools academic areas are funded at relatively the same rate, the contract schools must use a goodly percentage of their academic funds for operation and maintenance charges, whereas the federally funded BIA School's operation and maintenance costs are picked up by the Division of Facilities Management.

With the advent of Public Law 95-561, a great step had been taken by Congress to provide equality in funding by the inclusion of sections 1128 and 1129 in the law (a copy of this is included for reference).

Attachments A and B show the Bureau of Indian Affairs' apparent commitment to the Marty Indian School Board of 230,490 dollars for operation and maintenance charges. We are not the only previously private contract school in this dilemma (see attachment B). However, as of this date we have not received this funding and if it is not forthcoming soon our school operation during the summer and our opening in the fall will be greatly jeopardized, even to the point of closing.

We have made several attempts through channels, Area BIA Office in Aberdeen to BIA Central Office in Washington, D.C. to get an answer for this delay. All our efforts have been answered with "it is in the legal department."

Our tribal chairman, Mr. Larry Cournoyer, made a trip to Washington, D.C. to inquire about this on April second and third. He met with Mr. Gabe Paxton who assured Mr. Cournoyer that an answer would be coming in a week to ten days.

The letter, attachment C, appears to be this answer:

When a tribal chairman's request for information from BIA personnel is also put off we feel our only alternative is to write to our congressional delegation and see if they can get some answers for us. These are our questions:

1. Why exactly is the money being held up?
2. Does the "hold up" have something to do with the legality of the rules and regulations?
3. What alternatives do we have for school operations if the funds are not forthcoming?
4. Are we still not equal to the federally funded BIA schools?

We are not to the point of desperation as of yet but this day is drawing near.

We would appreciate any help your office could provide for us. Please call us upon receipt of this request for questions or answers that may have come up by then.

Thanks for your concern with the education of the Native American. On the day we left Marty we recived a copy of a letter written to Mr. Micheal Gross, our attorney, from Ralph Reeser, acting Deputy Assistant Senator for Indian Affairs, saying that we would finally get the operation and maintenance funding. A little late. A little less.

I might include that our tentative budget for next school year 1980-1981 does not include funds for operation and maintenance. Why is this? Are we going to be placed in the same situation next year?

We suggest that the Senate Appropriations Committee specify clearly and distinctly where the Bureau of Indian Affairs is to take operation and maintenance funds for previously private contract schools for fiscal year 1981.

There are other "previously private" contract schools that are in this same situation. We do not want to mention that we are cognizant of those schools, those in our immediate area—St. Francis Indian School and Crow Creek School both in South Dakota. They share with us in this testimony.

Marty Indian School supported the introduction and applauded the passage of Public Law 95-561. It assured us equality in funding across the board was in reach. However, this appears not to be so. As I mentioned earlier, and as you can see from our tentative allotment for fiscal year 1981 the operation and maintenance funds are not included again. Section 31h.143 of the Federal Rules and Regulations dated October 26, 1979 specifically states "The Assistant Secretary shall arrange for operation and maintenance of contract schools by fiscal year 1981." We may again have to use our academic "earmarked" funds for the operation and maintenance of Marty Indian School.

It has been a pleasure to testify before you today. Thank you for listening to us. We as Indian educators are of the firm belief that in our youth lies the future of our Indian people.

Thank you.

A0904 MARTY INDIAN SD

ALLOTMENT CALCULATION FORM

INSTRUCTIONAL AND RESIDENTIAL ALLOTMENT

	INSTRUCTIONAL ADM	WEIGHT FACTORS	WEIGHTED INST ADM	BOARDING ADM	WEIGHT FACTORS	WEIGHTED BRD ADM	DORM ADM	WEIGHT FACTORS	WEIGHTED DORM ADM	WEIGHTED TOTALS
BASIC PROGRAM										
Kindergarten	12.50	1.00	12.50	.00	1.40	.00	.00	1.40	.00	12.50
Grades 1-3	35.00	1.20	42.00	.00	1.40	.00	.00	1.40	.00	42.00
Grades 4-8	90.00	1.00	90.00	49.50	1.25	61.88	.00	1.25	.00	151.88
Grades 9-12	107.00	1.30	139.10	78.00	1.25	97.50	.00	1.25	.00	236.60
	======		======	======		======	======		======	
SUBTOTALS	244.50		283.60	127.50		159.38	.00		.00	
SUPPLEMENTAL PROGRAM										
Bilingual Program	.00	.20	.00							.00
EXCEPTIONAL CHILD PROGRAMS										
FULL TIME-HIGH SERVICE LEVEL										
Deaf	.00	3.00	.00	.00	.50	.00	.00	.50	.00	[illegible]
Blind	.00	3.00	.00	.00	.50	.00	.00	.50	.00	[illegible]
Severely Multihandicap.	.00	3.00	.00	.00	.50	.00	.00	.50	.00	[illegible]
Severely Retarded	.00	3.00	.00	.00	.50	.00	.00	.50	[illegible]	.00
Hospital/homebound inst	.00	3.00	.00	.00	.50	.00	.00	.50	[illegible]	.00
Sever. Emotionally Dist.	.00	3.00	.00	.00	.50	.00	.00	.50	.00	.00
Emotion. Dist.(non-Sev)	.00	1.00	.00	.00	.50	.00	.00	.50	.00	.00
Specific Learning Disab.	.00	1.00	.00	.00	.50	.00	.00	.50	.00	.00
Mentally Retarded	.00	1.00	.00	.00	.50	.00	.00	.50	.00	.00
	======		======	======		======	======		======	
SUBTOTALS	.00		.00	.00		.00	.00		.00	
PART TIME-MODERATE SERVICE LEVEL										
Emotionally Disturbed	.00	.50	.00	.00	.25	.00	.00	.25	.00	.00
Specific Learning Disab.	4.00	.50	2.00							2.00
Mentally Retarded	.00	.50	.00	.00	.25	.00	.00	.25	.00	.00
Multihandicapped	.00	.50	.00	.00	.25	.00	.00	.25	.00	.00
Hearing Impaired	.00	.25	.00							.00
Visually Handicapped	.00	.25	.00							.00
Orthopedically Impaired	.00	.25	.00	.00	.25	.00	.00	.25	.00	.00
Other Health Impaired	.00	.25	.00	.00	.25	.00	.00	.25	.00	.00
Speech Impaired	.00	.25	.00							.00
	======		======	======		======	======		======	.00
SUBTOTALS	4.00		2.00	.00		.00	.00		.00	
Intense Resident. Guid.				.00	.50	.00	.00	.50	.00	.00
SMALL SCHOOL ADJUSTMENTS K(100-X)/200*X			.00			.00			.00	.00

TOTAL WEIGHTED STUDENT UNITS | 444.981

THE BASE VALUE OF ONE UNIT IS $ 1843.77 WHEN MULTIPLIED BY THE TOTAL WEIGHTED STUDENT UNITS,
THE TOTAL UNADJUSTED INSTRUCTIONAL/RESIDENTIAL ALLOTMENT FOR THE SCHOOL IS $ 820431.56.

INSTRUCTIONAL
RESIDENTIAL $ 820431.561
ALLOTMENT

MAY 1980

```
                                            ALLOTMENT CALCULATION FORM
          JIAN                      SD                                                                  ADDITIONAL ALLOTMENT CALCULATIONS
         ------------------------------------------------------------------------------------------------------------------------------

      ATION
      udents
      Average Daily Mileage       187.7  X    .85 = $     159.55
      Average Daily Students       53.4  X    .61 = $      32.57
                                                      ------------
                                                $     192.12  X  180 Days = $   34581.42                       $    34581.42

  Residential Students
      Total Miles transported
        0 - 100                  1073.0  X   3.20 = $    3433.60
      101 - 350                 12321.0  X   1.60 = $   19713.60
      350 +                     11496.0  X    .48 = $    5518.08
      Air Miles                      .0  X    .60 = $        .00
                                                      ------------
                                                $   28665.28                                                   $    28665.28

  The Total Unadjusted Transportation Allotment is $    63246.70                                                $    63246.70

  The Unadjusted Basic Allotment (Instructional/Residential + Transportation) is $   883478.24                    $   883478.24

  Phase-in Provisions
    Through the operation of the Formula Phase-in Provisions, schools are limited to a gain of  20%.    ADJUSTED ----------------
    With a Recorded FY79 Expenditure Of $     685645., The Unadjusted Basic Allotment Represents          BASIC $     822054.00
    a gain of   29%.  In applying the Phase-in Provision, the Adjusted Basic Allotment Becomes          ALLOTMENT ----------------
    $     822054.


  ADDITIONAL FUNDS

  School Board Training Fund                                                                                    $     5000.00
    These funds may only be expended if a School Board exists in accordance with  25 CFR Part 31h.2(r).

  The Total Allotment for Budget Activity 3100 is $   827054.00                                                $   827054.00


    Minor Maintenance and Minor Repair Fund                                                                     $     7944.55

    Operation and Maintenance for Contract Schools not receiving services from BIA                               $   273048.00
    Expenditure from this fund is limited to actual cost of custodial salaries, fringe benefits,  supplies, equipment
    and equipment repair; insurance; and utilities.  Expenditures are subject to verification and audit.


  THE TOTAL ALLOTMENT FOR ALL FUNDS IS $  1108046.55
                                                                                                        ----------------
                                                                                                   TOTAL $    1108046.55
                                                                                               ALLOTMENT ----------------
```

MAY 1980
Richard J. Bordeaux
Superintendent
Marty Indian School
Marty SD 57361

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:
ian Education

FEB 2[illegible]

FEB 1980
Richard J. [illegible]
Indian School
S.D.

Memorandum

To : School Program Administrator - Previously Private Contract Schools

[illegible]
From : Director, Office of Indian Education Programs

Subject: Contract School Operations and Maintenance Fund

Subpart L, 25 CFR Part 31h, Indian School Equalization Program, provides for maintenance and operation funds for previously private contract schools. Subpart L, subsection 31h.141, covers the establishment of interim fiscal year 1980 operation and maintenance funds. Pending approval of a reprogramming request for FY 1980, we have recently established a commitment to this fund of $2.0 million. Each eligible previously private contract school is herein provided a tentative commitment for their share of the FY 1980 Operations and Maintenance fund. These commitments are subject to audit of the FY 1979 reported O&M costs received from each school.

We are instructing Bureau contracting officers, by copy of this memorandum, that they may proceed to prepare contracts or modifications based upon the [illegible] commitments with the proviso of the dollar amounts being subject [illegible] due to audit and availability of appropriated funds.

S. Gale Paxton Jr.

Attachment

Mail Code 507
O I E Program
B I A
D O I
18th + C Streets, NW
W, D.C. 20240

BEST COPY AVAILABLE

LAW OFFICES OF
MICHAEL P. GROSS
SUITE [illegible], SENA PLAZA
POST OFFICE BOX [illegible]
SANTA FE, NEW MEXICO [illegible]
[illegible]

RONALD J. VAN AMBERG
OF COUNSEL

JOHN B. AMARANT
ASSOCIATE

July 17, 1980

Mr. Richard Bordeaux
Marty Indian School Board, Inc.
Box A
Marty, SD 57361

Dear Richard:

Enclosed is a copy of Mr. Reeser's letter confirming the Bureau's intention to add $230,490 to your contract for facility operation and maintenance for fiscal year 1980.

I have checked with Mr. Casey in Mr. Barlow's office about the discrepancy between this figure and the April printout. Mr. Casey, who worked on this matter for Mr. Barlow, says the reduction in amount represents a reversion to the original figure shown on your November application and the January printout. The action was deliberate and reflects the realities of funds available, says Casey. All eligible previously private contract schools will experience the same reduction.

The advice of allotment should reach the area office shortly. A modification to your contract should then be awarded. Please let me know when it arrives and have your contracts officer send me a copy as well.

For now it thus appears the problem has been resolved and no law suit will be required.

It has been a pleasure working with you. I look forward to future contacts with you. Please call if you have any questions.

Sincerely,

MICHAEL P. GROSS

MPG:dm

cc: Joe Dupris

enclosure

United States Department of the Interior
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

15 JUL 1980

Mr. Michael P. Gross
Attorney at Law
P.O. Box 219
56 Sena Plaza
Santa Fe, New Mexico 87501

Dear Mr. Gross:

This confirms my advice to you that Advice of Allotments will be issued for your clients as follows:

Marty School..................	$230,490
Ojibway School................	124,100
St. Francis School............	200,140
Wyoming Indian High School....	102,500

Sincerely yours,

Ralph R. Reeser
Acting Deputy Assistant
Secretary - Indian Affairs

rec'd April 28, 1980

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
ABERDEEN AREA OFFICE
115 FOURTH AVENUE S.E.
ABERDEEN, SOUTH DAKOTA 57401

IN REPLY REFER TO:
Division of Education

APR 25 1980

Mr. Richard Bordeaux
School Superintendent
Marty Indian School
Marty, South Dakota 57361

Dear Mr. Bordeaux:

Enclosed is a copy of the Fiscal Year 1981 instructional and residential allotment for the Marty Indian School.

Sincerely,

H. Eagle Bull
Assistant Area Director Education

Enclosure

cc:
Superintendent,
Yankton Agency

208

[illegible] MARTY INDIAN SD11

ALLOTMENT CALCULATION FORM

APRIL 15, 1980

INSTRUCTIONAL AND RESIDENTIAL ALLOTMENT

	INSTRUCTIONAL ADM	WEIGHT FACTORS	WEIGHTED INST ADM	BOARDING ADM	WEIGHT FACTORS	WEIGHTED BRD ADM	DORM ADM	WEIGHT FACTORS	WEIGHTED DORM ADM	WEIGHTED TOTALS
BASIC PROGRAM										
Kindergarten	13.00	1.00	13.00							
Grades 1-3	34.00	1.20	40.80	.00	1.40	.00	.00	1.40	.00	40.80
Grades 4-8	84.50	1.00	84.50	40.00	1.25	50.00	.00	1.25	.00	134.50
Grades 9-12	101.00	1.30	131.30	69.00	1.25	86.25	.00	1.25	.00	217.55
	======		======	======		======	======		======	
SUBTOTALS	232.50		269.60	109.00		136.25	.00		.00	
SUPPLEMENTAL PROGRAM										
Bilingual Program	.00	.20	.00							.00
EXCEPTIONAL CHILD PROGRAMS										
FULL TIME-HIGH SERVICE LEVEL										
Deaf	.00	3.00	.00							.00
Blind	.00	3.00	.00							.00
Severely Multihandicap.	.00	3.00	.00							.00
Severely Retarded	.00	3.00	.00							.00
Hospital/Homebound Inst	.00	3.00	.00							.00
Sever. Emotionally Dist.	.00	3.00	.00							.00
Specific Learning Disab.	.00	1.00	.00							.00
Mentally Retarded	.00	1.00	.00							.00
	======		======	======		======	======		======	
SUBTOTALS	.00		.00	.00		.00	.00		.00	
PART TIME-MODERATE SERVICE LEVEL										
Emotionally Disturbed	.00	.50	.00	.00	.25	.00	.00	.25	.00	.00
Specific Learning Disab.	.00	.50	.00							.00
Mentally Retarded	.00	.50	.00	.00	.25	.00	.00	.25	.00	.00
Multihandicapped	.00	.50	.00	.00	.25	.00	.00	.25	.00	.00
Hearing Impaired	.00	.25	.00							.00
Visually Handicapped	.00	.25	.00							.00
Orthopedically Impaired	.00	.25	.00	.00	.25	.00	.00	.25	.00	.00
Other Health Impaired	.00	.25	.00	.00	.25	.00	.00	.25	.00	.00
Speech Impaired	.00	.25	.00							.00
	======		======	======		======	======		======	
SUBTOTALS	.00		.00	.00		.00	.00		.00	
Intense Resident. Guid.				.00	.50	.00	.00	.50	.00	.00
SMALL SCHOOL ADJUSTMENTS (199-X)/200*X			.00			.00			.00	.00

TOTAL WEIGHTED STUDENT UNITS | 405.85

THE BASE VALUE OF ONE UNIT IS $ 1890. WHEN MULTIPLIED BY THE TOTAL WEIGHTED STUDENT UNITS,
THE TOTAL UNADJUSTED INSTRUCTIONAL/RESIDENTIAL ALLOTMENT FOR THE SCHOOL IS $ 767056.50.

INSTRUCTIONAL
RESIDENTIAL $ 767056.50
ALLOTMENT

```
                                                        ALLOTMENT CALCULATION FORM
AD434 HAPTY INDIAN                           5011              APRIL 15, 1980                      ADDITIONAL ALLOTMENT CALCULATIONS
==================================================================================================================================

TRANSPORTATION
  Day Students
      Average Daily Mileage        187.7  X    .85 = $     159.55
      Average Daily Students        53.4  X    .61 = $      32.57
                                                       ============
                                                   $      192.12  X  180 Days = $   34581.42                $   34581.42

  Residential Students
      Total Miles Transported
         0 - 100                 1073.0  X   3.20 = $    3433.60
        101 - 350               12321.0  X   1.60 = $   19713.60
        350 +                   11496.0  X    .48 = $    5518.08
        Air Miles                    .0  X    .60 = $        .00
                                                       ==========
                                                   $   28665.28                                          $   28665.28

The Total Unadjusted Transportation Allotment is $    63246.70                                           $   63246.70

The FY 1981 amount has been increased by 10% to partially offset higher transportation costs.
The adjusted 1981 amount is     $69,571.36                                                               $   69571.36

The Unadjusted Basic Allotment (Instructional/Residential + Transportation) is $   836627.86              $  836627.86


ADDITIONAL FUNDS

School Board Training Fund                                                                               $    5000.00
  These funds may only be expended if a School Board exists in accordance with  25 CFR Part 31h.2(r).

The Total Allotment for Budget Activity 3100 is $   841627.86                                            $  841627.86
```

the phase-in provision detailed in § 31h.19.

§ 31h.131 Addition of pre-kindergarten as a weight factor to the Indian School Equalization Formula in fiscal year 1982.

The Director, in consultation with the tribes and school boards, shall determine appropriate weight factors needed to include pre-kindergarten programs in the Indian School Equalization Formula in fiscal year 1982. Based on a needs assessment, to be completed by January 1, 1980, pre-kindergarten programs shall be included in the Bureau's education request for fiscal year 1982.

Subpart L—Contract School Operation and Maintenance Fund

§ 31h.140 Definitions.

Contract school operation and maintenance costs for fiscal year 1979 means the sum of costs for custodial salaries and fringe benefits, related supplies and equipment and equipment repair, insurance, and school operation utilities costs, where such costs are not paid by the Division of Facilities Management or other noneducation Bureau sources.

§ 31h.141 Establishment of an interim fiscal year 1980 operation and maintenance fund for contract schools.

There is established in the Division of Facilities Management a separate fund entitled the Contract School Operation and Maintenance Fund. The Secretary shall cause the distribution of an amount of $2.5 million, under the fiscal year 1980 appropriation for the Bureau, from budget activity 3500, "General Management and Facilities Operations", to the schools through this fund and shall create an appropriate account or subaccount for the Contract School Operation and Maintenance Fund.

§ 31h.142 Distribution of funds.

(a) Each contract school shall receive in fiscal year 1980 a portion of the Contract School Operation and Maintenance Fund determined by the percentage share which that school's fiscal year 1979 operation and maintenance cost represents in the total fiscal year 1979 operation and maintenance cost for all such schools.

(b) To be eligible for these funds, a contract school shall submit a detailed report of actual operation and maintenance costs for fiscal year 1979 to the Director by November 23, 1979. These cost figures will be subject to verification by the Director to assure their accuracy prior to the allotment of any funds under this subpart.

(c) Any funds generated under this subpart shall be included in the computation of the phase-in amount as set forth in § 31h.19 if supplemental operation and maintenance funds were included in a school's fiscal year 1979 3100 contract funds.

§ 31h.143 Future consideration of contract school operation and maintenance funding.

The Assistant Secretary shall arrange for full funding for operation and maintenance of contract schools by fiscal year 1981.

October 18, 1979.

Forrest J. Gerard,

Assistant Secretary, Indian Affairs.

[FR Doc. 79-[illegible] Filed 10-[illegible]-79; 8:45 am]

BILLING CODE 4310-[illegible]

BEST COPY AVAILABLE

Senator **Hatfield**. Do I understand that you have cut out certain educational programs in order to——

Mr. **Bordeaux**. We never had the opportunity. We are just starting from the beginning. We never had a chance to institute a lot of things that we were going to do.

Senator **Hatfield**. You are saying that you are not cranking up rather than cutting out.

Mr. **Bordeaux**. That is right.

Senator **Hatfield**. Thank you, gentlemen.

Mr. **Dupris**. We should make a point of that item.

Next year that may be the case, because there are no provisions that exist right now, that I know of, to place the maintenance and operation into the formula. Also, there has been no request for funds to fund maintenance and operation in the 1981 budget by the Bureau, so there will be massive cuts.

Also, the indirect costs for over half the schools, perhaps 30 or so, do not exist.

Senator **Hatfield**. Where would you plan to make such cuts if you are in that kind of circumstances?

Mr. **Dupris**. It would have to be in the program.

Senator **Hatfield**. Do you set your programs with certain priorities such that you could indicate as an example what kind of program cuts you might have to make?

Mr. **Dupris**. Obviously, it would be travel, all kinds of travel. Sports would be impacted, teachers, no summer school probably, or any preschool activities. Transportation will really hurt. It will hurt the schools in general.

The Kildee amendment specifically limited the amount of money the schools can get, whereas the Bureau schools were protected from that. That is another reason why they will not have enough money. In general, it is going to be very very bad next year.

We need your assistance. That is why we are here. We need to have oversight on the Bureau and the education at this time. It is critical, because not enough is happening.

Senator **Hatfield**. You made a very good presentation, Mr. Dupris. and all of you.

Mr. **LaPointe**. Senator, may I add something?

Senator **Hatfield**. Yes.

Mr. **LaPointe**. I know the Senate Appropriations Committee has some type of authority over the appropriation of money, but I think they should, at least, specifically and clearly tell the BIA where to get those O. & M. moneys, or from what part of the budget, so that we will not get into this situation again next year.

Thank you.

Senator **Hatfield**. Thank you all very much.

I would like to invite Mr. Charles Calica and Mr. Warren Clements to the table. They are from Warm Springs, Oreg.

I am very happy to welcome my colleagues and fellow citizens from the State of Oregon.

STATEMENT OF CHARLES CALICA, DIRECTOR OF TRIBAL EDUCATION, THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON, ACCOMPANIED BY WARREN R. CLEMENTS, MUNICIPAL MANAGER, THE CONFEDERATED TRIBES OF THE WARM SPRINGS RESERVATION OF OREGON

Mr. CALICA. Thank you, sir. My name is Charles Calica, the director of tribal education programs of the Confederated Tribes of Warm Springs Reservation of Oregon.

I would like to take this opportunity to state my appreciation on behalf of the tribal council for being afforded this opportunity to present these statements.

I would also like to request a 10-day extension on our submitting written testimony.

Senator HATFIELD. We will keep the record open, so that within 10 days we will place in the record any additional testimony or documentation that you or anyone else wish to present.

Mr. CALICA. Thank you.

I would like to begin by presenting our perspective of the Indian Basic Education Act, title XI, of Public Law 95-561. It is our perspective that the congressional intent should be applauded, as it represents a sincere attempt to fulfill the educational needs of Indian people. The act addresses the three major resources of the Federal Government for the support of Indian students of public school age.

However, we feel that some of the provisions of the law are incomplete and, in some instances, are inappropriate and impractical. Part A of the act addresses Federal impact aid, Public Law 81-874, moneys. The positive provisions of part A are the increased multiplier for Indian children, stipulations for tribal consultation, and the complaint procedure.

However, we feel that the statute could be improved by implementing regulations. The statute and its implementing regulations need to exhibit greater compliance standards to insure greater local education agency accountability before the complaint procedure is invoked.

A greater Federal and State involvement needs to occur in providing technical assistance and negotiating compliance standards for tribes and local educational agencies to implement the intent of the statute.

One negative attribute of part A of the act is the extinguishment of payments for part B students, or those students of parents who either live or work on the Federal installation. We feel that these payments need to be continued.

Part B of the act addresses the legislative reorganization of the Office of Indian Education Programs operated by the Bureau of Indian Affairs. Prior to being signed into law, our tribe submitted oral and written testimony.

Included in that testimony was a statement by Mr. Eugene Greene, former tribal council chairman, to the reorganization task force, dated February 2, 1978, which says:

While there are many able and dedicated employees in the Bureau, it has suffered from a lack of continuity in direction, long range planning and clearly expressed policies. In our view, the major problems of the Bureau are these factors, rather than the organizational structure. Improvements must come in these areas.

There was also a statement by Warren Clements, municipal manager, to the House Committee on Education and Labor:

H.R. 9810 misses the mark in accomplishing adequate legislative reform. Where administrative discretion already exists to accomplish the proposed change, Federal legislation is neither necessary nor desirable.

H.R. 9810 is premature in that it effects sweeping reorganizations in Indian education programs within the Bureau of Indian Affairs at a time when a systematic evaluation of the Bureau is taking place.

The magnitude of educational services delivered through the Bureau of Indian Affairs could not possibly be addressed by legislative mandate without serious oversight. Legislative reorganization connotes a stigma on the organization, presupposes a strong understanding of operational issues, and tends to be inflexible.

A number of issues can be cited to illustrate the shortcomings of the statute. One area is that direct line authority separates the education units from other human supportive services programs and it also separates the education units from administrative support units, for example, contracts and budgets planning. The result of this administrative separation of education within the Bureau has also caused problems and frustration among the tribes in their ability to succeed. The retention and recruitment of quality personnel is inhibited.

Communications planning and coordination is ineffective.

A second issue that illustrates the inadequacies of the act is the Indian school equalization program, which deemphasizes nonschool operations in the distribution of education administration funds. The key to this concern is that the present formula does not address administrative functions performed at area and agency levels where tribes subscribe to public school programs or operate educational programs and activities that are nonschool operations.

The lack in this formula has resulted in the reduction in administrative funds for the Portland area office in excess of $1 million to $265,700 in 1 fiscal year. We feel that that represents a very grave reduction in educational services for the Portland area office.

Senator HATFIELD. Mr. Calica, I wonder if you could put the rest of your statement in the record as you have submitted it and talk about a couple of questions. Is that alright with you?

Mr. CALICA. Yes. That will be fine.

Senator HATFIELD. Without objection, the remainder of your testimony will be included in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF CHARLES R. CALICA OF THE CONFEDERATED TRIBES OF WARM SPRINGS RESERVATION OF OREGON

Mr. Chairman, my name is Charles R. Calica of the Confederated Tribes of Warm Springs Reservation of Oregon. I would like to present a perspective on the Indian Basic Education Act, Title XI of Public Law 95-561. Congressional intent should be applauded, for the Act represents a sincere attempt to fulfill the educational needs of Indian people. The Act addresses the three major resources of the Federal Government for the support of Indian students of public school age.

Part A of the Act addresses Federal impact Aid Public Law 81–874, funds for public schools serving Indian reservations. The positive provisions of Part A are the increased multiplier for Indian children, stipulations for Tribal consultation and the complaint procedure. The statute and its implementing regulations need to exhibit greater compliance standards to ensure greater local educational agencies' accountability before the complaint procedure is invoked. A greater Federal and State involvement needs to occur in providing technical assistance and negotiating compliance standards for tribes and local educational agencies to implement the intent of the statute. One negative attribute of Part A of the Act is the extinguishment of payment for "B" students. These payments need to be continued.

Part B of the Act addresses the legislative reorganization of Indian Education Programs operated by the Bureau of Indian Affairs. Prior to being signed into law, our Tribe has submitted written and oral testimony, excerpts are:

1. Statement by: Eugene Greene, Tribal Council Chairman; To: Reorganization Task Force, February 2, 1978.

"While there are many able and dedicated employees in the Bureau, it has suffered from a lack of continuity in direction, long range planning and clearly expressed policies. In our view, the major problems of the Bureau are these factors, rather than the organizational structure. Improvements must come in these areas."

2. Statement by: Warren Clements, Municipal Manager; To: House Committee on Education and Labor.

"H.R. 9810 misses the mark in accomplishing adequate legislative reform. Where administrative discretion already exists to accomplish the proposed change, federal legislation is neither necessary nor desirable."

"H.R. 9810 is premature in that it effects sweeping reorganizations in Indian education programs within the Bureau of Indian Affairs at a time when a systematic evaluation of the Bureau is taking place."

The magnitude of educational services delivered through the Bureau of Indian Affairs could not possibly be addressed by legislative mandate without serious oversight. Legislative reorganization connotes a stigma, presupposes a strong understanding of operational issues and tend to lack flexibility.

A number of issues can be cited to illustrate the myopia of the statute.

1. Direct line authority separates the Education units from other human supportive services programs. This arrangement also separates and confuses Education responsibilities relative to administrative units of the Bureau, i.e., Contracts and Budgets Planning. Direct line authority represents a move back to centralized administration as it circumvents Area Office involvement.

2. The Indian School Equalization Program de-emphasizes non-school operations in the distribution of education administration funds. The present formula does not address administrative functions performed at Area and Agency levels where tribes subscribe to public school programs, or operate educational programs and activities that are non-school operations. For the Portland Area Office this resulted in a reduction in administrative funds from in excess of $1,000,000 to $265,700 in one fiscal year.

Part B of the Act contains provisions for many of the Bureau's activities, these have not been analyzed as of this writing.

Part C of the Act reauthorizes the Indian Education Act Title IV, Public Law 92–318. Of particular significance in this part is the definition of Indian Study. Michael Blouin explained that the study was to examine eligibility for participation in Title IV programs, to determine the extent of abuses. Under the existing definition it is possible to serve a person of 1/256 degree Indian blood. Federally-recognized Tribes reserve as a sovereign right the right to determine enrollment standards and identifying who their members are. The concern of tribes is that a study has been commissioned and the ensuing definition will be adopted for all Federal programs serving Indians, irrespective of their Federal recognition status. Federally recognized Tribal communities have seen political and financial resources diluted and abused by some non-federally-recognized Indian communities.

Within the context of Indian Basic Education Act, programs operated by the Department of Education are amended by liberal provisions. Programs operated by the Department of the Interior through the Bureau of Indian Affairs are amended by stringent reorganization provisions. The difference in performance expectations places the Bureau of Indian Affairs at an unfair disadvantage, unjust pressure will promote failure and provide false justification for transferring its programs to the new Department of Education. Tribes and Indian organizations clearly demonstrated their opposition to the transfer of the Bureau's Education Programs. Clearly, the Bureau's operation is not above reproach, but it is the agency that *is the most knowledgeable*, responsive and responsible in meeting Indian needs than any other agency of the Federal Government. Outside the Bureau education system, the Indians need to educate the agency before the agency can effectively educate the Indian.

In reviewing the status of Indian Education pursuant to the adoption of Public Law 95-561, it is recommended that:

1. Federal Government work cooperatively to provide technical assistance to local educational agencies and Tribes to negotiate basic educational services for Indian children.

2. The Federal Government work with states to implement administrative rules to ensure the implementation of Federal education legislation for Indian education.

3. The allocation and distribution of Public Law 81-874 monies for "B" students, be reinstated.

4. The Director of the Office of Indian Education Program expedite adoption of a formula to distribute education administration monies by function and to establish threshold funding for the maintenance of those functions.

5. The language of Public Law 95-561 be re-examined and tribal consultation be sought to amend the present statute and implementation regulations.

6. The adoption of a legislative and executive policy that no consideration be given for the transfer of Bureau of Indian Affairs Education Program into the New Department of Education.

7. There be a legislative and executive recognition and support to provide adequate resources to the Bureau of Indian Affairs for the effective execution of its educational responsibilities. It has already come to our attention that the House Interior Appropriations legislation for Fiscal Year 1981 is cutting the Bureau's overall education administration budget by $500,000 The Committee report directs that this reduction be applied principally toward equipment, and supplies, and that it not affect personnel levels. With the Bureau's education administration budget already stretched thin, we oppose this reduction. The effectiveness of education administration will be handicapped if they are denied the necessary materials to carry out their job.

8. Establish a monitoring system to examine the equity and effectiveness of legislative, administrative and technical support being given to Public Law 81-874, Title IV relative to the Bureau of Indian Affairs meeting the intent of Public Law 95-561.

Senator HATFIELD. You have made a very careful analysis. I have read through your statement. It is an excellent analysis of the act which you present us.

I would like to engage in a little colloquy here to clarify further some of the points that you raise. On the one on page 2 that you have just raised, about the administrative reduction, I understand that you have resolved this matter with BIA. Is that correct?

Mr. CALICA. Yes; we have.

Senator HATFIELD. Will you describe a bit about how that happened or what kind of arrangement has been made.

Mr. CALICA. I am glad to see that the funds have been restored. It took a lot of work to research the issue. We had to come back on many occasions to, I suppose, promote communication between the Portland area office and the central office.

We feel that the lack of communication has been because of some of the issues that we presented; namely, fragmented and reactive anticipatory planning that has occurred, the transfer of administrative positions within elements under the Bureau that occurred and caused confusion, and an unclear line of authority that may have promoted some of the misunderstanding.

For example, I believe transfers within elements—there were recommendations that were made by the task force to the Portland area director to transfer positions from one element to another. I would say that a lot of what we did came from promoting better communications.

Senator **Hatfield**. Do you have any thoughts as to how these communications might be revised or improved to prevent such problems from arising in the future?

Mr. **Calica**. Yes; I believe some of them are included in our statement. I believe the one that is key is the adoption of legislative and executive policy that no consideration be given to the transfer of BIA education programs to the new Department of Education.

We feel that right now there is a lot of anxiety and a lot of frustration arising out of the language of the law. I believe you have heard previously from some of the tribal programs and BIA employees of the pressure that they are feeling.

It is my understanding that there are several area director positions that have been vacant and other key education positions that have been vacant because, perhaps, there is a lack of security within the Bureau at the present posture of things. They are under pressure to succeed and if they do not succeed they are threatened with transfer to the new Department of Education.

Senator **Hatfield**. Thank you.

Mr. Clements, do you have any comments that you wish to make on any of these matters?

Mr. **Clements**. Mr. Chairman, I want to refer back to matter No. 1 on page 2 of the testimony. The last sentence in No. 1 was omitted in the original draft, but I think it is an important point.

Our tribe, prior to any Federal legislation mandating specific organizational implementations by Public Law 95-561, opposed bypassing the area office and building up a centrally controlled education outfit, because we have always had good working relationships with our area office. It is close to home and we have been able to communicate in a very good, effective manner.

We see a buildup occurring in Education for central control, so it looks as though we have come full circle. I just wanted to make that point.

That is a specific concern of ours. We have not evaluated whether that will be good or bad, but if it occurs as it did in the past, it will be bad.

Another point that I wanted to make, Mr. Chairman, is in relationship to a concern expressed on page 3, No. 7, that there be a legislative and executive recognition and support to provide adequate resources to the Bureau of Indian Affairs for the effective execution of its educational responsibilities.

Of course, we see these in relation to our treaty and the trust relationship generally. What I want to make reference to, specifically, is that the House markup has reduced administrative funds by $500,000 and we think that will have a very negative effect on an already very thin program; namely, the Education Administration.

Senator **Hatfield**. Thank you.

There is one other inquiry that I would like to make. You make reference to the definition of Indian study in your testimony. Are you satisfied with the direction of the study thus far? I am speaking about the bottom of page 2 in your testimony, the last paragraph: "Of particular significance in this part is the definition of Indian Study." It is under title IV.

Mr. CLEMENTS. Mr. Chairman, the definition that our tribe supports is the one that is contained within the Indian Self-Determination Act.

Senator HATFIELD. Do you feel the study is proceeding properly?

Mr. CLEMENTS. If the study is deviating from the federally recognized tribes' preferred definition, then we are not comfortable with the title IV definition if it is not in that vein, and we think it might not be.

Senator HATFIELD. Fine. Thank you very much, Mr. Calica and Mr. Clements. We appreciate your coming back to testify.

Mr. CALICA. Thank you.

[Material to be supplied follows:]

Senator HATFIELD. The testimony of Mr. Ray Streeter, superintendent of the Labre Indian School, will be made a part of the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF MR. RAY STREETER, LABRE INDIAN SCHOOL, ASHLAND, MONT.

During July of 1979, we were instructed by the area office to prepare a tentative budget for fiscal year 1980. In addition to the student allotment figure, we were to estimate: (a) any carry-over funds; (b) transportation costs; (c) operation and maintenance costs.

On January 29, 1980, we received final allotment calculation form for fiscal year 1980 which included:

- (*a*) The total instructional/residential amount.
- (*b*) Our transportation allotment.
- (*c*) School board training.
- (*d*) Minor maintenance and minor repair fund of $7,159.
- (*e*) O/M entitlement of $127,417. Attached to this allotment form was an explanation by Mr. Barlow that the O/M supplement was under some legal question.

On February 21, 1980, we received the attached letter from Mr. Paxton instructing Bureau contracting officers to prepare contracts or modifications based on the attached commitments.

Since that time, we have continually been informed that the monies have not been released for O/M. A few weeks ago, we did receive the minor maintenance and repair fund of $7,159.

On April 25th we received an amended final allotment form for fiscal year 1980. Our instructional budget was increased by some $14,000. However, the area officer told me these funds are not available.

This same allotment form indicated an O/M allowance of $152,050. This was some $24,000 more than the previous notification. This money is still not available.

Some ten days ago, I was asked by the area officer to pro-rate our O/M costs for ten months (September through June) so that a cost analysis could be prepared—why, I don't know.

The school is now in a position where a budget must be submitted for fiscal year 1981. I have received a tentative student allotment and transportation figure, but nothing on O/M. We are now in a situation where we have obligated and spent from our instructional budget in anticipation of receiving promised O/M monies. Secondly, I have been instructed to prepare a budget for fiscal year 81. This is impossible under the present situation, and it is my hope that this hearing will finally remedy the situation.

Enclosure.

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:
ian Education

FEB 21 1980

Memorandum

To : School Program Administrator - Previously Private Contract Schools

From : ACTING DEPUTY Director, Office of Indian Education Programs

Subject: Contract School Operations and Maintenance Fund

Subpart L, 25 CFR Part 31h, Indian School Equalization Program, provides for maintenance and operation funds for previously private contract schools. Subpart L, subsection 31h.141, covers the establishment of interim fiscal year 1980 operation and maintenance funds. Pending approval of a reprogramming request for FY 1980, we have recently established a commitment to this fund of $2.0 million. Each eligible previously private contract school is herein provided a tentative commitment for their share of the FY 1980 Operations and Maintenance fund. These commitments are subject to audit of the FY 1979 reported O&M costs received from each school.

We are instructing Bureau contracting officers, by copy of this memorandum, that they may proceed to prepare contracts or modifications based upon the tentative commitments with the proviso of the dollar amounts being subject to change due to audit and availability of appropriated funds.

S. Gale Paxton Jr.

Attachment

Black Mesa	$17,260	
Little Singer	34,560	
Miccosukee	39,790	
Cour de' Alene	36,850	
Fort Hall		
Nez Perce	13,340	
Bug-O-Nay-Ge-Shig	4,350	
Nay-Oh-Shing	7,070	
Hannahville	23,600	
Labre	127,420	
Duckwater	13,590	
Ojibway	124,100	
St. Michael	136,080	
Theo Jamerson	24,460	
Institute of Southern Plains	9,450	
Crow Creek	151,830	
Marty	230,490	
St. Francis	200,140	
Paschal Sherman	102,800	
Puyallup	96,310	
Quileute		
Yakima Indian School	74,540	
Lac Courtes Oriellcs	100,620	
Oneida	25,000	
St. Stephens	95,470	✓
Wyoming Indian High School	102,500	✓
Blackwater Community School	20,410	
Twin Buttes	19,000	
Two Eagle River	24,460	
Shiprock Alternative	14,820	

United States Department of the Interior
BUREAU OF INDIAN AFFAIRS
WASHINGTON, D.C. 20245

IN REPLY REFER TO:

JAN 29 1980

Memorandum

To : School Principal

From : Director, Office of Indian Education Programs

Subject: Allotment for School Operations

The formal initial Advices of Allotment for School Operations will be sent out in about three weeks. I am sending you the information this office is providing Financial Management. Your likely allotment is circled in red. It is my belief that your urgent needs for planning purposes can best be met by the detail provided in these printouts.

Please note carefully that the amount in the lower right hand corner of the first page may be supplemented by a Student Transportation amount shown at the top of the second page. Further, you must determine whether the total calculated entitlement has been adjusted for phase-in.

Previously Private Contract schools are scheduled to receive an O&M supplement. We are working to resolve some legal questions before these funds can be made available to you.

Earl J. Barlow

Enclosures

Senator **Hatfield**. Without objection, the testimony of Phillip Martin, tribal chief, Mississippi Band of Choctaw Indians, will be made a part of the record at this point.

[The prepared statement follows.]

Prepared Statement of Phillip Martin, Tribal Chief, Mississippi Band of Choctaw Indians

My name is Phillip Martin, Chief of the Mississippi Band of Choctaw Indians. I would like to present testimony on the implementation of Public Law 95-561, particularly as it relates to the furloughing of BIA school personnel.

There are presently (6) elementary, (1) middle, and (1) high school located on the Choctaw reservation, and operated by the Bureau of Indian Affairs. Choctaw is in a somewhat different position than some of the other groups from which you will receive testimony. There are no public or private schools on the reservation. The only schools available for our children are the Bureau schools. Therefore, changes in the Bureau education system affect our way of life more profoundly than to changes implemented on reservations who have only a small percentage of their children in BIA operated schools.

Of the five areas designated for testimony for this hearing, we would like to address the issue of furloughing of BIA teachers and the problems related to furloughing. The central issue is not, for the most part, if BIA teachers should be furloughed. The problems we are facing with regard to this issue is the information base from which decisions on furloughing comes. We feel the following points should be considered for appropriate action as outlined in the following pages.

1. Decisions on furloughing are being made as a result of panic promoted by the complete lack of training made available to local school administrators on the budgeting process under the Indian School Equalization Program. Local school principals have been delegated the authority to run local schools on the reservation within a severely restricted budget. The accounting function, however, is not delegated to the local schools and local agency. Budget information is still coming from the Albuquerque and Central Office. Principals have requested training from Central Office to interpret their budget reports and print outs to no avail. The old cuff accounts kept at the schools previously are insufficient. Local school administrators feel that they have been set an impossible task. On one hand, they have been given strict instructions that they must not under any circumstances, go into an over run on any amount. On the other hand, they do not have enough information to determine their budgetary status at any particular point in the fiscal year. This results in decision making which is more on fear and lack of information than in informed fiscally sound operation.

It is possible, and even probable, that needed staff for whom there is money available are being furloughed due to lack of efficient fiscal control and insufficient training in the budgetary process.

2. The hasty implementation of ISEP without the proper administrative support system changes and training which should have accompanied that phase of the formula, have resulted in the schools receiving less than the amount that they are actually entitled to under the formula. There was not sufficient time or technical assistance for schools to set up the kinds of record keeping and certification processes necessary to claim all of the types of students who are actually being served. This has led to a lack of sufficient funds for personnel.

3. Agency staff have met with local BIA school personnel and explained policies in Reduction in Force and Furloughing. The definition being used by the Bureau is not strictly confined to teachers. The category used in relation to RIF and furloughs is entitled, "Instructional Personnel," and includes not only teachers; but teacher aides and dormitory aides as well. The categories of Teacher Aide, Dormitory Aide, Cooks and Bus Drivers, account for the largest number of Indian employees at the lowest salaries. These are the people who can truly not afford to be furloughed as their annual salaries are at the bottom of the scale to begin with.

It is ironic that at a time when large numbers of Indian people are finally working in BIA, a change comes which would have the effect of discouraging their continued employment. No one has been willing to define how Indian preference should apply with regard to furlough status. Any decision about furloughing which uses time in grade or professional status will almost certainly affect Indian employees the most. The few Indians who have managed to reach certification status would certainly be the first to go if time in grade is used as a factor because of their recent tenure. Someone must make a decision.

It has become apparent in operating under ISEP this past year at Choctaw that the need to furlough is based on a formula which is equitable only in terms of spreading its insufficiency to all schools. Although the regulations which govern the distribution of operating funds in Vol. 44, No. 209 state:

> "Administrators and school boards should be assured that there is money in their allocation, under the ISEP for every legitimate educational program need . . ."

It is quite simple to prove that statement false. Even without the furloughing crisis, there would not be enough money available for our schools to provide a needed summer school program. The add on weight for bilingual instruction does not generate enough money per classroom to provide a bilingual aide for our children, almost all of whom do not speak English upon entering school. The lack of provision for inflation, cost of living adjustments, and other costs which the school must indicate that furloughing is just the beginning of our problems. As these other costs jump, schools will need to move from furloughing to reducing the number of teachers. Yet, the school's ability to do so is severely limited by accreditation standards, and the rights guaranteed to teachers. We have more than one grade level combined into one classroom with one teacher now. It appears that the brunt of the cuts will fall in instructional materials. School administrators are reporting that they are not planning to purchase more than the bare essentials—paper and pencils. The losers are our children.

It is clear to see from the four areas outlined that any discussion of furloughing of teachers must center around the formula devised for implementation of ISEP and the implementation and administration of the formula. There are far too many critical problems involved in ISEP to address in this hearing. Just a few of these urgent problems are, for example:

1. Some of the regulations are not finalized. Others are poorly written, incomplete, unclear.

2. The law required that the BIA reform and reorganized itself. It has not done so, and it appears to be trying hard not to do so.

3. The school supervisors do not understand the law and they have not been given the training necessary to carry it out.

4. The law called for a shift of responsibility to the agency Superintendent for Education and the school supervisors and neither is prepared to accept the additional burden.

5. The BIA has been slow in implementing the new personnel management system. According to the law, all personnel hired after November 1, 1979, are contract. The BIA is now saying that all personnel hired for next school year will be contract.

6. The school supervisors are slow in implementing the financial management requirements of 95–561. They have not prepared the local education financial plans, they are ill prepared to calculate deficits in the FY '80 budget and they are powerless to deal with the deficits in the best fashion.

7. The formula discriminates against small schools. Even the small school adjustment formula discriminates against the really small schools.

8. The formula discriminates against new schools. The start-up time for new schools is very long. There is no school planning money. The object seems to be preventing Indian communities without schools from obtaining them.

9. The requirements for the local educational financial plan are vague and cumbersome. There are many items that are supposed to be included, but it is not clear how or where the supervisor should include them. The BIA has contracted with a firm in Tallahassee, MGT, to develop the forms and instructions, but they haven't done so.

10. The formula funds do not follow students if they move from school to school. If the students are not there during the count week, the school will not receive additional funds, even if costs rise later in the year.

11. There are several issues that need to be addressed with regard to the formula. In summary, they are: small school adjustment formula, transportation allotment, new school start-up, pre-school weight, alternative schools allocation, rural or geographically isolated school weight, administrative staff cost, vocational education allotment, and gifted child allotment, preschool and bilingual.

The Choctaw tribe feels that it is urgent that subsequent hearings be held to address these problems before our children and the whole fabric of our reservation communities are damaged. ISEP has proved to be impractical and unworkable in the form in which it has been implemented. The original idea of spreading Indian Education dollars equally among Indian students nationwide in BIA schools and preventing disproportionate amounts on relatively few students had merit. It was reasonable to assume that when Chilocco, (an off-reservation boarding sechool in Oklahoma) was reporting an average per pupil expenditure of $20,168 and other off-reservation boarding schools run by the Bureau were reporting figures ranging from a low of $7,299 to the highest figure at Chilocco. (six schools above $10,000 per student per year) that there were problems which must be resolved. Choctaw Central's per pupil expenditure during the same time period was $2,650 including dormitory operation. That figure of $2,650 was so modest for the type of operation, that the expectation of the tribe was that with more equal distribution of funds under P.L. 95–561, the school could begin to offer urgently needed instructional programs for which there were previously no funds available. Instead, we find our schools in critical shape. Some of the effects of P.L. 95–561 have been reduced services, low staff morale, threat to our school's accreditation, closing of facilities and lay off of 91 educational personnel. Many employees are unable to receive unemployment benefits,[1] and the impact of the school budget cuts is beginning to have a severe overall economic impact on the reservation.

Our recommendations for alleviating some of the problems presently experienced include:

If lay-offs are necessary, they should be shared by Area Office and Central Office staff as well as local personnel.

With the increased responsibilities to local agencies for budgeting and program management, there must be appropriated or transferred additional administrative personnel to the local agency. The lapse time from Central Office and Albuquerque is too great to implement the new system effectively at the local level. Specifically, agency personnel are needed in fiscal management, curriculum development and program design, management personnel and data retrieval analysis in order to cope with the cumbersome and extensive documentation now required under ISEP.

Training and Technical Assistance should be made immediately available to local school personnel including principals on implementation procedures, fiscal control and accounting function problems.

If such technical assistance is not available, the implementation of ISEP should be waived until such time as training has taken place, to assure that our children do not suffer from the improper implementation.

Benefit and compensation problems should be worked out before laying off personnel. Some provision for unemployment insurance must be made.

Hearings should be held within the next two to three months to allow tribes to identify the problems with the formula and its implementation.

A process must be devised to insure that layoffs do not have the effect of primarily laying off Indian employees and discouraging their continued employment with the Bureau. Standard periods of time should be specified for layoffs rather than having one employee laid off for 2 weeks while another is off for 10 weeks.

We are gravely concerned about the effects of the implementation of Public Law 95–561 on our reservation. We support efforts to improve the delivery system of the Bureau of Indian Affairs which provides our children with education. It is impossible for us to ignore the negative effects of ISEP. They are all too obvious. Our children are being shortchanged and denied the services they must have to function as productive citizens of the tribe and the country. We ask that you give serious consideration to our recommendations for we have only the best interests of our children in mind in making them.

Senator HATFIELD. At this point, I would like to invite Mr. Earl Barlow, Director of the Office of Indian Education, Bureau of Indian Affairs, to come to the witness table. I understand you are accompanied by Ms. Marge Wilkins and Ms. Erlene Brown.

---

[1] State law prohibits unemployment compensation for educational personnel in a furlough status.

You must be one or the other.

Ms. HOLMGREN. No, neither.

Senator HATFIELD. Who is accompanying you, Mr. Barlow? You are Mr. Barlow, are you not?

STATEMENT OF EARL BARLOW, DIRECTOR, OFFICE OF INDIAN EDUCATION, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY: ELIZABETH HOLMGREN, OFFICE OF INDIAN EDUCATION PROGRAMS, DIVISION OF ELEMENTARY AND SECONDARY EDUCATION; AND MARGE WILKINS, LEGISLATIVE SPECIALIST, OFFICE OF CONGRESSIONAL AND LEGISLATIVE AFFAIRS, BIA

Mr. BARLOW. Yes, Mr. Chairman. Marge is here. I also have with me Elizabeth Holmgren, who is an employee in the Office of Indian Education Programs and is an education specialist in the Division of Elementary and Secondary Education.

Senator HATFIELD. Thank you very much. We will place your entire statement in the record. I would appreciate it if you would summarize your statement at this time.

Mr. BARLOW. Yes, Mr. Chairman. I have a prepared statement which I will submit for the record.

In light of the testimony that has been presented, perhaps you would prefer it if I just answer questions. I am prepared to do so.

Senator HATFIELD. Very good. Without objection, your full statement will be included in the record at this point.

[The prepared statement follows:]

PREPARED STATEMENT OF EARL BARLOW, DIRECTOR, OFFICE OF INDIAN EDUCATION PROGRAMS, DEPARTMENT OF THE INTERIOR

Mr. Chairman and Members of the Committee, I welcome the opportunity to appear before you today to discuss the progress of BIA education programs. BIA education has undergone many significant changes in the last year, chief among them being changes in fund distribution in student accounting, and in direct line authority.

The major cause of these changes is, of course, the implementation of Title XI of Public Law 95-561. This Act required development of regulations in eight areas, to which the BIA added a ninth, school boards. To date proposed regulations have been published for six of the nine areas, with final regulations published for five. Final regulations are in effect for the Johnson-O'Malley funding formula, transfer of Indian education functions, the Indian School Equalization Program, education personnel, and policies. Nearing initial publication are impact aid, standards, student rights, and school boards. All are currently undergoing technical review.

The Office of Indian Education Programs has established the necessary mechanisms for implementing the regulations after publication of final regulations. Nine separate tasks have been identified to insure complete and prompt implementation. Revisions to the Department Manual for organization and delegations of authority are currently in the Secretary's Office for technical review. A new section 62 BIAM has been released to implement the new education personnel system. Hiring under the new system began May 1 for the 1980-81 school year. Some schools whose budgets have been reduced through the equalization formula have found it necessary to furlough employees during the summer months.

Student accounting manuals and student count verification procedures are in use and all student counts have been certified. The entire Johnson-O'Malley regulations have been revised and are nearing initial publication for public comments. The management information system is partly operational at this time and should be fully operational on or before November 1, 1980.

A group of education and administrative personnel has been formed to develop and test administrative models for provisions of support services to the Office of Indian Education Programs; a temporary BIA Manual Bulletin is in effect and establishes an interim operational system. A draft of educational and dormitory standards has already undergone field review and is currently being redrafted to meet regulatory language requirements prior to official publication.

Aside from the Public Law 95–561 effort, we continue to operate 224 schools serving 48,341 students (average daily membership) in grades kindergarten through twelve. As mandated in Public Law 96–46, Chilocco and Seneca Indian Schools ceased operation on June 15, 1980. The Department has directed that Fort Sill and Stewart be closed by September 30, 1980.

Implementation of Public Law 95–471, the Tribally-Controlled Community College Act, is proceeding well, with final regulations having been published in November, 1979.

Greatly improving our internal Central Office operations is the fact that our staffing is almost up to strength. This has greatly increased our ability to respond to the needs of school and other field personnel.

In the future we will continue our efforts to improve the educational opportunities of Indian students and to facilitate Indian control of Indian affairs in all matters relating to education. We appreciate the assistance we have received from this Committee and the Congress. It will be our responsibility to insure that you and the Congress are made aware of our progress and needs as we move toward our common goal of quality educational opportunities for Indian children, adults and Tribal Governments.

Mr. Chairman, this concludes my prepared statement. I would be happy to answer any questions you may have.

Senator HATFIELD. What planning was done, Mr. Barlow, for placement of students and staff and for future utilization of facilities prior to the announcement of the closing of the Fort Sill and Stewart boarding schools? If you have any studies or any other data base on which such decisions were made, would you provide them for the record, please.

Mr. BARLOW. Yes sir.

[The following material was subsequently received for the record. Testimony resumes on p. 310.]

A Review of
Bureau of Indian Affairs'
Off-Reservation Boarding Schools

Program Review Division
Office of Budget
U.S. Department of the Interior

May 6, 1980

INTRODUCTION

This study of Bureau of Indian Affairs (BIA) Off-Reservation Boarding Schools (ORBS) grew out of Executive and Congressional concern about high costs of operation and declining enrollment in these schools. Public notice of the study was announced through a press release. (Included as Appendix I).

During the course of the study, Office of Budget program review personnel or a BIA Office of Indian Education employee conducted on-site visits to each of the 14 ORBS.

All schools were visited between September 5 and October 5, 1979, and programs were reviewed ranging from academic to operation and maintenance.

Facilities evaluation reports recently completed by engineering firms contracted through the Office of the Secretary for purposes of establishing an inventory of BIA repair and improvement needs were utilized, as well as GAO and Inspector General reports.

The report provides background, an overview of all the schools, recommendations and other considerations plus appendices, as follows:

		PAGE
I.	Background	1
II.	Overview	1
III.	Recommendations	23
IV.	Other Considerations	28
Appendix I	(Press Release)	30
Appendix II	(Definition of terms and discussion of individual schools)	31

Office of Budget
May 6, 1980

I. Background

The fourteen Off-Reservation Boarding Schools have an enrollment of approximately 4600 students, although they have at one time had a total enrollment that was much larger. During the last seven years, the number of students - discounting turnover - has steadily decreased - from 5,822 in 1972 to 4,631 this year, a drop of 20%.

The original purpose of the ORBS as they were established in the nineteenth century was to "civilize" young Indians. Later, they served to educate Indian students during a period when on-reservation schools were insufficient to accommodate all Indian children. Today these fourteen schools, six of which are in Oklahoma, serve primarily as alternatives to either home, local public schools or BIA schools for students with social adjustment problems. Most students come to ORBS from public schools and are highly mobile as evidenced by the turnover rates which generally average 30-50% in any school year. Many of the ORBS high school students are 3-5 grades below the national average achievement level for their ages. Relatively few of those who graduate go on to colleges or universities; for most, graduation marks the end of their formal schooling

The schools' academic curricula and other programs are remarkedly similar. Only an occasional isolated program - like the Solo Parent Program at Intermountain - could be considered different. None of these schools are unique in any significant way when compared to each other.

II. Overview of the Off-Reservation Boarding School

Three of the schools are elementary (grades 1-8): Concho and Seneca in Oklahoma and Wahpeton in South Dakota. Eleven are high schools (grades 9-12): Chemawa in Oregon, Flandreau in South Dakota, Intermountain in Utah, Mt. Edgecumbe in Alaska; Phoenix in Arizona; Sherman in California; Stewart in Nevada; and Chilocco (also serves students in grade 8), Fort Sill, Riverside and Sequoyah in Oklahoma. These fourteen schools have four basic programs: academic, home living, student services, and operation and maintenance. Individual reviews of schools are included in Appendix II.

Table I, which follows, presents summary statistics concerning enrollment, staff, and costs of the ORBS:

TABLE I

BIA OFF-RESERVATION BOARDING SCHOOL COSTS, STAFF AND ENROLLMENT

SCHOOL TYPE BIA Area Office School Name	FY 79 COST* PER AVERAGE DAILY MEMBERSHIP**	TOTAL STAFF	FY 80 AVERAGE DAILY MEMBERSHIP
SECONDARY			
Aberdeen			
Flandreau, SD	8,649	132	423
Anadarko-Muskogee			
Chilocco, OK	20,168	107	173
Ft. Sill, OK	10,885	92	160
Riverside, OK	10,751	115	243
Sequoyah, OK	12,547	102	222
Juneau			
Mt. Edgecumbe, AL***	18,955	192	393
Phoenix			
Intermountain, UT	11,612	340	723
Phoenix, AZ	5,263	169	516
Sherman, CA	6,728	178	623
Stewart, NV	8,184	122	409
Portland			
Chemawa, OR	17,593	115	219
Sub-Total		1,664	4,104
ELEMENTARY			
Aberdeen			
Wahpeton, ND	7,229	86	292
Anadarko-Muskogee			
Concho, OK	9,192	79	182
Seneca, OK	14,585	54	53
Sub-Total		219	527
TOTAL		1,883	4,631

* Costs include school operations, facilities maintenance, ESEA Titles I&IV and Indian Monies Proceeds of Labor (IMPL).

** (ADM) - the number of students present at a school during specified periodic count weeks.

*** Costs for Mt. Edgecumbe include the 25% cost of living allowance (COLA) for Alaska.

Student Information

The student count data in this report, obtained through the BIA or on the date of the site visit, will reflect different totals, because the numbers represent measurement at different times.

Information provided by the Office of Indian Education Programs reveals that the 4959 * students are enrolled in the ORBS under various criteria as follows:

Social		
Personal/Parental	1306	
Social	1367	
Sub-total		2673
Education		
Academic	1194	
Curriculum	20	
Isolation	302	
Sub-total		1516
Unknown		770
		4,959*

Social

Most students are admitted under the Bureau's social criterion regulation, 62 BIAM 2.5.2.B:

(1) Those who are rejected or neglected for whom no suitable plan can be made.

(2) Those who belong to large families with no suitable home and whose separation from each other is undesirable. (sic)

(3) Those whose behavior problems are too difficult for solution by their families or through existing community facilities and who can benefit from the controlled environment of a boarding school without harming other children.

---

* Number of students as reflected in BIA education information system as of October 15, 1979.

(4) Those whose health or proper care is jeopardized by illness of other members of the household.

Education

The BIA education criterion, 62 BIAM 2.5.2.A makes student admittance possible under the following conditions:

(1) Those for whom a public or Federal day school is not available. Walking distance to school or bus transportation is defined as one mile for elementary children and 1-1/2 miles for high school.

(2) Those who need special vocational or preparatory courses, not available to them locally to fit them for gainful employment. Eligibility under this criterion is limited to students of high school grades 9 through 12 and post high school grades 13 and 14.

(3) Those retarded scholastically three or more years or those having pronounced bilingual difficulties for whom no provision is made in available schools.

The numbers of students, by school and specific admittance criteria, are set out in Table II which follows on the next pages:

According to the most recent data from the BIA Office of Indian Education Program, a profile shows that 49.9% of all students in Off-Reservation Boarding Schools are from Arizona and Oklahoma (See Table III). Of the 1,705 from Arizona, 1,168 students are in a school outside Arizona:

Sherman, CA	500
Intermountain, UT	328
Stewart, NV	340

All but six of the 768 Oklahoma students are in Oklahoma ORBS schools.

However, the Oklahoma schools are attended by the following percentages of students from other states:

Chilocco	(Secondary)	41%
Fort Sill	"	34%
Riverside	"	30%
Sequoyah	"	12%
Concho	(Elementary)	11%
Seneca	"	16%

TABLE II

NUMBERS OF OFF-RESERVATION BOARDING SCHOOL

STUDENTS BY BIA ADMITTANCE CRITERIA

SCHOOL TYPE BIA Area Office School Name	EDUCATION			SOCIAL			
	Academic	Curriculum	Isolation	Parental/ Personal	Social	Undesignated	Total
SECONDARY							
Aberdeen							
Flandreau, S. D.	21	2	--	143	318	3	487
Anadarko-Muskogee							
Chilocco, Ok.	38	13	1	33	124	--	209
Fort Sill, Ok.	135	--	--	17	15	4	171
Riverside, Ok	--	--	--	231	27	8	266
Sequoyah, Ok.	25	5	--	29	130	8	197
Juneau							
Mt. Edgecumbe, Al.	26	--	156	7	4	208	401
Phoenix							
Intermountain, Ut.	13	--	14	513	29	156	725
Phoenix, Az.	111	--	116	79	283	5	594
Sherman, Ca.	615	--	5	20	36	5	681
Stewart, Nv.	20	--	8	28	20	361	437
Portland							
Chemawa, Or.	5	--	2	20	224	6	257
Sub-Total	1,009	20	302	1,120	1,210	764	4,425

TABLE II (Cont'd)

NUMBERS OF OFF-RESERVATION BOARDING SCHOOL

STUDENTS BY BIA ADMITTANCE CRITERIA

SCHOOL TYPE BIA Area Office School Name	EDUCATION			SOCIAL			
	Academic	Curriculum	Isolation	Parental/ Personal	Social	Undesignated	Total
ELEMENTARY							
Aberdeen							
Wahpeton, N. D.	180	--	--	14	107	1	302
Anadarko-Muskogee							
Concho, Ok.	--	--	--	168	14	4	186
Seneca, Ok.	5	--	--	4	36	1	46
Sub-Total	185	--	--	186	157	6	534
TOTAL	1,194	20	302	1,306	1,367	170	4,359

BIA Data
October 15, 1979

TABLE III

OFF-RESERVATION BOARDING SCHOOLS
STUDENT ENROLLMENTS BY STATE
FOR 1979-80 SCHOOL YEAR

School Type BIA Area Office School Name	AK	AL	AZ	CA	CO	FL	GA	IA	ID	IL	KS	LA	ME	MI	MN	MO	MS	MT	ND	NE	NM	NV	NY	OK	OR	PA	SD	TN	TX	UT	VA	WA	WI	WY	***	TOTAL
Secondary																																				
Aberdeen																																				
FLANDREAU, SD					2			13		13				10	76	3		81	66	21	1			2			72					2	83	33		480
Anadarko-Muskogee																																				
CHILOCCO, OK			9	1		4	1			1	9				72		11	2	3	16	10			87	2		23		1				2		2	212
FORT SILL, OK			1	1	1					3	3				3			2		3	13		2	112			6		9	1	1	1	3	1	1	171
RIVERSIDE, OK			3	3	2			3			11				3			10		1	11			303	1	1	1	1		3		6		19		387
SEQUOYAH, OK		1			1	9					1					2		2					2	173			3							2	1	197
Juneau																																				
MT. EDGECUMBE, AK	399																								1											400
Phoenix																																				
INTERMOUNTAIN, UT		4	280	12	20	11		1	13	10	3	1	6		10			73	3	2	26	12		3	5	1	26			60		20	35	6		727
PHOENIX, AZ			283	9	13				3		2										22	8			1		2			3					8	384
SHERMAN, CA			380	99	1				2										1		12	19		1	1					20		16				481
STEWART, NV			340	25	1				4													27			7					30		1				434
Portland																																				
CHEMAWA, OR			1	9					10									93	4		1	2			30		3					67		7		237
Elementary																																				
Aberdeen																																				
WAHPETON, ND E**										11				1	36			32	120	39	2						13						35		2	308
Anadarko-Muskogee																																				
CONCHO, OK E		1									11					2					2			166		1			3							186
[illegible], OK E						3					2												1	39											1	46
TOTAL	399	6	1302	157	48	27	1	17	40	38	42	1	6	11	181	7	11	297	197	73	218	69	3	760	46	3	131	1	13	116	1	141	150	90	13	4934

* Through November 17, 1979

** Elementary

*** Undesignated

While thirty-four states have students attending ORBS schools in 8 states, 93.2% of the students come from the following 15 states:

Arizona	1,705
Oklahoma	768
Alaska	399
Montana	297
North Dakota	197
Minnesota	181
Wisconsin	158
California	157
South Dakota	151
Washington	141
New Mexico	118
Utah	116
Wyoming	90
Nebraska	73
Nevada	68

The other 7.5% of students come from:

Oregon	48
Colorado	42
Kansas	42
Idaho	40
Illinois	38
Florida	27
Iowa	17
Undesignated	15
Texas	13
Michigan	11
Mississippi	11
Missouri	7
Arkansas	6
Maine	6
New York	5
Pennsylvania	3
Georgia	1
Massachusetts	1
Tennessee	1
Virginia	1

Of the 3,561 students who have an ORBS in their state, 58.1% attend within that state (See Table IV):

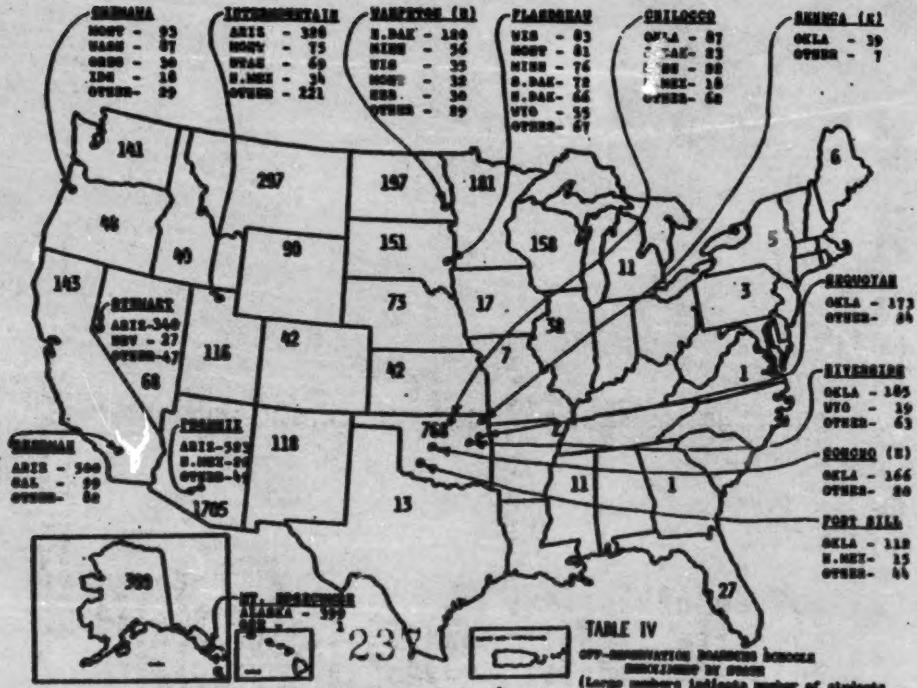


TABLE IV

OFF-RESERVATION BOARDING SCHOOLS
ENROLLMENT BY STATE
(Large numbers indicate number of students from each State)

BIA Data November 1979

	Total Students From State	Attending ORBS In State
Arizona	1,705	523
Oklahoma	768	762
Alaska	399	399
South Dakota	151	72
California	157	99
North Dakota	197	120
Utah	116	69
Nevada	68	27

Wahpeton, an elementary school, has 40% of its population from North Dakota, while Seneca and Concho, together have 88% from Oklahoma.

Most ORBS students, whether transfer or dropout, come from and go back to public schools. The student turnover rate - the percentage of students who arrive and leave without completing a full school year - is from 30-50%. Actual dropouts (as far as can be measured by the very limited ORBS student follow-up systems) are around 10%.

Academic Curricula

The 11 high schools provide basic academic programs that meet state standards. Since the three elementary schools do not apply for state or regional accreditation, their comparability with the various state elementary school standards is unmeasured. To facilitate meeting the special needs of students, all but one of the 14 schools have conducted needs assessments within the past three years.

Special academic services are provided to meet the special needs of students including career education, in varying degrees, at 12 of the 14 schools. Nine schools incorporate environmental education as units within the regular program. Remedial education in math and reading are provided in 12 schools.

Thirteen schools provide at least a limited degree of sex education and family planning through science, health or home economics classes or through group counseling. All 14 of the ORBS schools are attempting to meet the requirements of P.L. 94-142 and Bureau regulations concerning the provisions of special education services to the handicapped. Screening for all handicapping conditions occurs for each child.

For those students who are identified by the screening process, additional assessment and testing are provided.

Students who are found to have one or more handicapping conditions are provided an individual education program.

At some of the schools these services are extremely limited in nature due to the small number of students having the specific handicapping conditions.

According to information provided by the schools, the number of ORBS schools which have handicap programs are:

Learning Disabilities	- 13
Emotionally Disturbed	- 3
Emotionally Mentally Handicapped	- 4
Visually Handicapped	- 8
Deaf and Hard of Hearing	- 8
Speech Impaired	- 7

Vocational programs are provided both "in-house" and in a few cases through arrangement with regional public vocational-technical schools. Programs include:

Auto body
Auto mechanics
Home economics
Welding
Business
Printing
Drafting
Institutional cooking
Heavy equipment
Ranch management
Small engine
Building trades
Wood shop
Library science
Agriculture
Machine shop
Child care
Nurses aids
Cosmetology
Power sewing
Upholstery

Many of the "in-house" programs are limited since the focus of the schools is primarily academic.

Accreditation, Certification & Staffing

State and regional accreditation standards are usually considered quality control tools to ensure minimum standards for instructional programs. All 11 of the secondary schools are accredited with state and/or regional associations.

Class loads range from less than five students to more than 30. The total teacher-student ratio ranges from 1:5 at Seneca to 1:14 at Sherman. (Table V which follows presents staff to student ratios by school and by type of staff).

TABLE V
OFF-RESERVATION BOARDING SCHOOLS
STAFF TO STUDENT RATIOS
1979-80 SCHOOL YEAR

Office of Budget
December 18, 1979

SCHOOL TYPE BIA Area Office School Name	Total Staff	Teacher	Total Dorm Staff	On Duty Day Dorm Staff	On Duty Night Dorm Staff	Counseling	Social Services	Recreation
SECONDARY								
Aberdeen								
Flandreau, S. D.	1:2.8	1:11.8	1:20	1:50	1:120	1:107	1:420	1:50
Anadarko-Muskogee								
Chilocco, Ok.	1:1.9	1:9	1:7	1:15	1:50	1:100	NONE	1:100
Fort Sill, Ok.	1:1.7	1:8.2	1:6	Lacked	1:16 Special 1:50 Regular	1:78	1:56	1:78
Riverside, Ok.	1:2.2	1:11.8	1:8	1:45	1:25	1:65	1:239	1:75
Sequoyah, Ok	1:2.2	1:9.6	1:22	1:74	1:74	1:74	1:222	1:74
Juneau								
Mt. Edgecumbe, Al.	1:2.8	1:10.2	1:9.5	1:50	1:50 Regular 1:13 Special	1:40	1:200	1:50
Phoenix								
Intermountain, Ut.	1:2.1	1:8.6	1:7.6	1:27	1:50	1:75	1:187.5	1:50
Phoenix, Az.	1:3.4	1:13.5	1:12	1:45	1:100+	1:100+	NONE	1:60
Sherman, Ca.	1:3.9	1:14.2	1:12	1:65	1:125	1:139	1:696	1:87
Stewart, Nv.	1:3.6	1:11	1:12.5	1:60	1:100+	1:73	1:437	1:175
Portland								
Chemawa, Or.	1:2	1:7.9	1:5	1:32	1:32	1:69	1:236	1:73
ELEMENTARY								
Aberdeen								
Wahpeton, N. D.	1:3.5	1:13	1:10	1:50	1:100+*	1:100	NONE	1:43
Anadarko-Muskogee								
Concho, Ok.	1:2.3	1:9.8	1:11	1:31	1:94	1:187	NONE	1:93
Seneca, Ok.	1:1.1	1:5.8	1:3	1:13	1:19 Girls 1:39 Boys	1:58	1:58	1:58

* Counselors also serve as dorm supervisors at Wahpeton.

Some teachers at the various ORBS have not maintained state certification due to the lack of a Bureau requirement. In spite of this lack, the level of teacher qualification appears to be good. For example, at one school approximately 75% of the teachers have masters degrees.

Very few teachers are assigned outside their major area of certification or training. Only two of the 14 schools reported any such assignments.

Student Services

Student services staffs, though they vary in composition, generally provide counseling, recreational, and psychological assistance to students. The staff to student ratio ranges are as follows:

Counselors	- 1:40 to 1:187
School Social Workers	- None to 1:696
School Psychologist	- 1:43 and up (most schools have psychologists' services through the Indian Health Service)
Recreation	- 1:45 to 1:175

The typically low numbers of professionals to students (or in some cases the complete absence of social workers and psychologists) point up areas of concern for meeting student social development needs.

Home Living Staff

Dormitory staff provide the home living segment of the student's life. Staff to student on-duty ratios exceeding 1:25 for day time and 1:50 for night hours appear unreasonable to some staff in terms of what they hope to accomplish in working with the students. With rare exceptions the day time staff to student ratio was in the neighborhood of 1:40+ and the night on-duty ratio approached the 1:100 range.

Medical Services

Most medical services to the schools are provided by Indian Health Service (IHS). Ten schools have access to IHS doctors and nurses in adjacent facilities.

The percentage of students who receive complete annual physical exams varies by school. While many schools require physicals of students prior to their arrival, follow-up is spotty at best.

Many schools ensure that new students receive physicals. However, of those physicals given, only 12 schools include eye exams. Eleven schools provide glasses or corrective lenses either through IHS or by use of BIA funds. BIA funding is justified by the impression of some staff that IHS takes too long in the delivery of eye glasses and lenses. Screening for hearing occurs annually at 13 schools.

Overall, the schools estimated that students, on the average, received one dental exam per year. Dental exams are provided for only corrective reasons in six schools.

Vandalism and Personal Physical Attacks

Vandalism to physical property primarily amounts to glass breakage. Nine schools had over 20 occurrences last year, while the remaining five schools ranged between 1-20.

Incidents of attacks against staff members in either this or the past school year occurred at eight schools. Of those, six schools experienced 2-5 attacks, one had 6-10, and one had more than 10. At that school, 40% of the students had been involved in attacks on staff members. Of these attacks, all but one or two were perpetrated against dorm personnel.

Facilities

Detailed facility survey reports contracted under the direction of the Division of Facilities Management in the Office of the Secretary are available. No attempt to duplicate these studies was made. Overall conditions at the ORBS vary from schools that are largely modern, utilitarian and structurally sound to at least one (Stewart) that is reported to be "grossly unsafe" in regard to fire safety standards and fails to meet state structural standards for stone buildings in earthquake-prone areas.

Although at most schools the major student-use buildings either meet or could be up-graded to meet various codes and standards, at least three schools would require significant reconstruction or replacement of existing buildings in order to meet such codes or standards. The student capacity of the schools in an up-graded condition along with the comparative current enrollment is presented in Table VI.

As Table VI indicates, enough capacity to accommodate all Anadarko and Muskogee (Oklahoma) ORBS high school students could be achieved by up-grading some dormitories at two of the schools: Sequoyah and Riverside. Without further renovation, Concho could house the students presently enrolled at Seneca.

By up-grading of some dormitories in the Phoenix Area schools, the students at Stewart could be accommodated at the other three schools.

Without further allocation of new funds, Chemawa, Wahpeton, and Flandreau have the capacity to enroll an additional 418 students.

As a part of the review, school personnel were asked several questions concerning facilities that were directed at the students' physical safety.

Only nine schools had panic hardware on all exterior doors used by students. Fire extinguishers had been checked at ten schools within the three months prior to the visit with the other four schools having completed the same in the prior six to twelve months.

Six schools were checked for lead paint within the last school year while seven had never had an inspection. One had been checked within the last three years.

Inspections for hazardous asbestos occurred at six schools within the last year. Seven were never checked and one was reviewed within the last two years. Of the seven which had the review, four were determined to be free of hazardous asbestos while three were not. Of these three, it is not clear whether all hazardous conditions have been eradicated subsequently.

Sanitary conditions for the schools' kitchens were reviewed by sanitary inspection reports in the possession of the schools. Five inspections had occurred in this school year, eight in the last year. One had not been inspected in over two years.

TABLE VI
Enrollment and Capacity
ORBS High Schools in the
Lower 48 States

	Enrollment 1/ From School BIA Area	Enrollment 1/ From Other BIA Area	Total	Capacity/ Potential 2/
Aberdeen				
Flandreau	159	341	500	500/500
Anadarko-Muskogee				
Chilocco	96	116	212	250/500
Fort Sill	115	56	171	180/256
Riverside	196	71	267	300/396
Sequoyah	174	23	197	256/477
Subtotal	581	266	847	986/1,629
Phoenix(Including California)				
Intermountain	421	306	727	800/1500
Phoenix	343	51	394	750/750
Sherman	846	35	881	650/1028
Stewart	401	13	414	450/450
Subtotal	2,011	405	2,416	2,650/3,782
Portland				
Chemawa	135	122	257	236/400
Total	2,886	1,134	4,020	4,432/6,391

1/ Cumulative enrollment as of November 1979 as shown in Table III.

2/ Approximate numbers based on boarding capacity or potential with renovation but not new construction except for Chemawa where a new dormitory is underway. Necessary actions to meet potential are indicated as follows:

- Chilocco - Minor renovation for 250; major repairs for 500.
- Fort Sill - Minor repairs and installation of safety equipment.
- Riverside - Renovation of existing occupied dorms.
- Sequoyah - Renovation of vacant dorms.
- Intermountain - Renovation of multiple vacant dorms.
- Sherman - Renovation of two vacant dorms.
- Stewart - Major reconstruction necessary at present capacity.

In most cases, some minor repair or installation of safety equipment is considered necessary in occupied dorms.

The frequency of sanitary inspections ranged from: four on a quarterly basis, eight semi-annually, and one on no regularly scheduled basis. These inspections are generally conducted by the Indian Health Service.

Only Intermountain School had made a serious attempt to make all buildings accessible to handicapped persons.

Finance

The actual obligations reported to operate the ORBS in FY 1979 amounted to $46,713,981. Total costs per ADM ranged from $5,263 to $20,168 and averaged $11,595.

Comparative costs per ADM are presented in Table VII which follows. Category 3100 is a BIA financial account which encompasses academic, home living, pupil services, food services and administration costs, while category 3500 is an account which includes facilities operation, repair and maintenance costs.

In the ORBS, total costs per ADM include funding from sources other than BIA. First, the Indian Monies Proceeds of Labor (IMPL) accounts reflect income produced either from the land owned by the school or by the fund-raising efforts of the school such as athletic gate receipts.

The second source of non-BIA funds is from Titles I and IV of the Elementary and Secondary Education Act of 1965, P.L. 89-10 administered by the Department of Health, Education, and Welfare. Title I of the Act provides Federal funds for educationally and socially deprived students. Title IV, as an amendment in 1974 (P.L. 93-380), makes educational funds available to help students with one or several of a wide range of handicapping conditions.

Direct instruction costs per ADM appear to be directly related to "total 3100" costs per ADM and have a range of 27-39%. However, these costs appear to have little direct correlation to total costs per ADM. For instance, Phoenix with total costs per ADM of $5,263 per pupil has 39% of its budget allocated to direct instruction, while Seneca and Chemawa with $14,585 and $17,593 total costs per ADM respectively, have 27% and 28% of the total 3100 costs also allocated to direct instruction.

TABLE VII

OFF-RESERVATION BOARDING SCHOOLS
FY 1979 PER ADM OBLIGATIONS
BY CATEGORIES

SCHOOL TYPE BIA Area Office School Name	ADM	3100 Direct Instruction	3100 Home Living	3100 Food Services	3100 Other 3100	3100 Total 3100	3500 Total Oper. and Maint.	Title and IMPL	Total
SECONDARY									
Aberdeen									
Flandreau, S. D.	366	2,082	1,092	1,040	1,693	5,926	2,147	576	8,649
Anadarko-Muskogee									
Chilocco, Ok.	129	4,634	2,775	1,573	3,590	12,572	5,878	1,718	20,168
Fort Sill, Ok.	170	2,297	2,370	1,366	1,798	7,831	2,409	615	10,855
Riverside, Ok.	234	2,327	2,652	1,478	1,681	8,138	1,830	783	10,751
Sequoyah, Ok.	172	3,119	1,987	1,447	2,258	8,811	3,306	430	12,547
Juneau									
Mt. Edgecumbe, Al.	363	3,247	1,704	2,013	2,492	9,456	8,997	502	18,955
Phoenix									
Intermountain, Ut.	701	2,994	3,024	1,314	1,639	8,971	2,138	503	11,612
Phoenix, Az.	688	1,488	997	645	698	3,828	1,209	226	5,263
Sherman, Ca.	509	1,464	1,067	996	1,313	4,840	1,607	281	6,728
Stewart, Nv.	403	1,925	499	906	1,435	5,765	2,055	364	8,184
Portland									
Chemawa, Or.	188	3,747	2,760	1,173	5,464	13,144	3,414	1,035	17,593
ELEMENTARY									
Aberdeen									
Wahpeton, N. D.	296	1,546	1,912	933	729	5,120	1,633	476	7,229
Anadarko-Muskogee									
Concho, Ok.	206	2,495	1,713	1,201	1,186	6,595	2,049	548	9,192
Jones, Ok.	82	2,476	3,583	1,267	1,933	9,259	3,675	1,651	14,585

Source of Financial Data: FY 1979 BIA End of Year Fiscal Report

Office of Budget
December 15, 1979

Home living costs per ADM vary greatly. They range from $499 at Stewart to $3,583 at Seneca.

Food services costs per ADM are remarkably similar. Wahpeton, Phoenix, Sherman and Stewart, which have the lowest total costs per ADM, all average under $1,000 for food services. Mt. Edgecumbe with its $2,013 food costs per ADM is the only other school not in the $1,049 to $1,573 range. The nine schools average - in the latter range - $1,332 for food services.

Costs included in the "Other 3100" per ADM column of Table VII encompass pupil services, student activities, pupil transportation, general operations and other expenses. These costs per ADM vary widely: ranging from $698 at Phoenix to $5,464 at Chemawa. There appears to be no direct relationship between these costs and low staff to student ratios. High total costs per ADM are closely correlated to high "Other 3100" costs in the instances of Chilocco, Mt. Edgecumbe and Chemawa, but not in the instance of Seneca. Chemawa's "Other 3100" costs per ADM are 65% higher than the next nearest school figure and 88% higher than Phoenix.

Chilocco, Seneca and Chemawa's total costs per ADM reflect their relative high levels of IMPL and Title fund availability with an average of $1,468 per ADM compared to the other eleven schools' average of $482.

Per ADM operation and maintenance costs in nine schools averaged between 30-40% of the total 3100 costs. The four schools which had the highest total staff to student ratios also all had O&M costs ranging between 31-36%: Wahpeton, Phoenix, Sherman and Stewart. The other five schools' percentage of O&M relative to total academic costs were: Mt. Edgecumbe at 95%; Chilocco at 47%; Chemawa at 26%; Intermountain at 24%; and Riverside at 22%.

Formula Funds Distribution

In FY 1980, the BIA is required to use a new formula distribution system for the allocation and equalization of funds to all BIA elementary and secondary schools. The formula that has been adopted is based on individual student factors. Weights are assigned based on grade level, boarding requirements, specific handicaps and special requirements such as intense residential guidance. These weights are applied to the average daily memberships (ADM) to produce allocation units for each school. The impact of the application of the formula is modified by legislatively-imposed constraints that hold FY 1980 increases to 20% and decreases to 10% of the FY 1979 funding at each school. For FY 1981, changes are limited to increases of 70% and decreases of 30%. The full effect of the formula will apply in FY 1982.

Application of the formula to the Off-Reservation Boarding Schools has resulted in the maximum 10% reduction for each of the schools in FY 1980 with the prospect of much larger reductions in FY 1981.

Off-Reservation Boarding Schools are, on any basis, expensive operations. The necessity of twenty-four hours per day supervision of students and provision of food services, greatly increases the costs for boarding schools as compared to regular day schools. As discussed in detail below, the current formula may not provide adequately for boarding students. This possibility is suggested by the fact that even the most cost efficient Off-Reservation Boarding School will experience a 10% reduction from FY 1979. It should be noted also that an effect of limiting reductions to 10% is that the least cost-efficient and the most cost-efficient lose the same percentage of funds although the unconstrained application of the formula might call for a 20% reduction for the former and a 60% reduction for the latter.

Residential

The current formula as applied to boarding students appears to under allocate funds for the residential program.

The data in Table VII indicate that actual home living and food services costs exceed current formula fund allocations for all high schools but four. The current formula allots 1.25 unit weights per ADM for high school boarding programs. A unit weight for FY 1980 translates into $1,819. Therefore, $2,274 would be allotted for each high school ADM to cover food and dormitory living exclusive of operation and maintenance costs. Among high schools, only Phoenix, Sherman, Stewart and Flandreau operate at costs per ADM which are less than the formula allocation. Each has a large school population and is one of the four least expensive high schools per ADM to operate.

Flandreau with its $2,141 per ADM comes closest to the formula dollar allocation of $2,274. Sherman, with its total costs per ADM in FY 1979 of $2,063 for home living and food services is second only to Phoenix in its cost effectiveness among ORBS. However, Sherman has the second lowest on-duty day dorm staff ratio (1:65), lowest on-duty night staff ratios (1:125), and the lowest total staff to student ratio (1:3.9).

It appears that appropriate (though admittedly impressionistic) dormitory staff to student ratios occur at Intermountain for both on-duty day (1:25) and on-duty night (1:50) staff. However, Intermountain's costs for home living and food services per ADM were $4,338 and high compared to overall cost efficient schools like Sherman and Phoenix which average $1,000 per ADM.

A possible formula revision has been developed based on observations and conclusions developed during this study. This possible revision is presented in Table VIII and discussed in detail in the following pages.

TABLE VIII

Comparative Current BIA and Possible Formulas For Instructional and Residential Programs At Off-Reservation Boarding Schools

	Current BIA Formula		Possible Formula 1/		Unit Wt. Difference
	INSTRUCTIONAL				
	Units	Dollars	Units	Dollars	
K	1.0	$ 1,819	.81	$ 1,474	-.19
1-3	1.2	2,183	1.0	1,819	-.20
4-8	1.0	1,819	.81	1,474	-.19
9-12	1.3	2,457	.81	1,474	-.49
	RESIDENTIAL				
K	1.40	$ 2,366	2.14	$ 3,892	+.74
1-3	1.40	2,366	2.14	3,892	+.79
4-8	1.25	2,274	2.14	3,892	+.89
9-12	1.25	2,274	2.14	3,892	+.89

1/ Units are expressed in terms of the $1,819 base figure used in the current BIA formula system.

The instructional unit weight of .81 for all grades except 1-3 is equal to the per ADM costs for direct instruction at Phoenix and Sherman which have 1:13 teacher to student ratios. A higher per ADM unit weight of 1.0 was retained for grades 1-3 on the presumption that those years are especially critical in a child's education and even higher teacher-student ratios are warranted.

The boarding unit weights for students would be increased to 2.14. This number is a composite of the following factors:

1.77	boarding costs
.37	1/2 Other costs
2.14	

Phoenix and Sherman, which are the two most cost efficient ORBS, have home living costs per ADM of about $1,000. Their staff to student ratios in the dormitories are, however, half the ratio we believe to be desirable. We have assumed that $2,000 (1.1) per ADM would be sufficient at schools as cost efficient as Sherman and Phoenix to provide the staff ratios that exist at Intermountain, since the home living cost is almost completely derived from staff salaries.

The $1,225 (.67) for food services, is the average for food costs at twelve Off-Reservation Boarding Schools excluding Mt. Edgecumbe and Phoenix which appear from the data in Table VII to be anomalies.

Weights for Other (Table VII) are necessary to be built into the boarding costs since Home Living does not include provision for the "Other" services in a student's life, i.e., student activities, pupil services, general operations. Only one-half of the average cost per ADM is allocated for boarding since approximately one-half of these costs are associated with instructional programs. No allowance for Other appears necessary in instruction since day and contract schools currently provide full instructional administrative services from a per ADM allocation which is substantially below both the suggested formula allotment and is comparable to State, public, average, per child costs which include operation and maintenance.

No reallocation of weights is suggested for special students, small school supplements, or the Alaska adjustment.

The cumulative reallocation of unit weights per boarding student by grade would be:

K	+.55
1-3	+.59
4-8	+.70
9-12	+.40

III. Recommendations:

The following recommendations are made to the Assistant Secretary of Indian Affairs:

A. Reduction in Number of Schools

It is clear from the data that a substantial excess capacity exists in the Off-Reservation Boarding Schools. This is due in a large measure to increasing student use of public schools and to the successful policy of building schools on reservation and closer to the students' homes.

In the light of this excess capacity, we believe that significant opportunities exist at this point for economies by utilizing school consolidations.

After reviewing the programs at the schools, the review team is convinced that no significant programmatic differences exist between the schools. Therefore, it would seems appropriate to give significant weight to geographic considerations in placing students in ORBS so as to minimize their distance from home.

1. In the Anadarko-Muskogee (Oklahoma) Areas there is sufficient capacity at any two of the three large (Riverside, Sequoyah, Chilocco) high schools so that the student population from all four Oklahoma high schools could be offered comparable or better educational opportunities on a more cost effective basis.

Chilocco

Chilocco is presently the most expensive school per student of all the ORBS. Its facilities are old and inefficient and therefore its operational costs are very high.

Because the presently unused facilities at Chilocco are generally in poor condition, any significant expansion in enrollment would require major investments in either reconstruction or replacement of buildings. Since spaces are available in other area BIA Off-Reservation Boarding Schools, it is recommended that Chilocco be closed at the end of the current school year.

Fort Sill

While Fort Sill's per capita costs are average for ORBS and its major student use buildings are in sound condition, Fort Sill is recommended for closure at the end of 1979-80 school year on the basis that it is too small without substantial expansion to accommodate significant numbers of students from other ORBS. Riverside, which has 30% of its student population from outside the state, could alone enroll the population of Fort Sill in the upcoming school year.

Riverside and Sequoyah

Capacity at Riverside and Sequoyah is sufficient to accommodate the student population from the Oklahoma schools and the facilities at these two schools are generally in good condition. Furthermore, repair, improvement and demolition costs to bring Riverside and Sequoyah up to number one facility conditions would cost only slightly more than what repair alone at Chilocco would cost - ($3.6 vs. $3.2 million).

In addition, annual total O&M costs of approximately $1 million at Chilocco and Fort Sill would be significantly reduced by relocating their current students, while all Oklahoma ORBS students would still be located in Oklahoma.

Hopefully the turnover rate at other schools would also be reduced since students would be closer to home as a result of relocation from Oklahoma.

It is recommended that the authority and funds be given immediately to Riverside and Sequoyah to begin renovation and up-grading of their facilities to accommodate the additional students from closings elsewhere in Oklahoma.

2. In Oklahoma, enough capacity exists at one elementary ORBS to accommodate the students from both elementary ORBS.

Seneca

On the basis of (1) low enrollment, (2) excess academic staff for even the authorized enrollment (3) apparent poor management in allocation of staff and positions to meet the needs of the students, (4) rundown facilities with the exception of the academic buildings (5) high costs for the provision of all services and (6) available space in Concho elementary school in El Reno, Oklahoma, it is recommended that Seneca be closed at the end of the '79 to '80 school year.

3. Within the Phoenix Area (Arizona, Utah, Nevada and California), there exists ample capacity to house all of the current ORBS students that come from those states at Sherman, Phoenix and Intermountain schools (a total capacity of 2,200) without major renovations. Furthermore, a new high school on the Hopi Reservation, Arizona, is the top unfunded priority for the BIA school construction program. That school would provide space for approximately 400 Hopi students presently in ORBS, and further reduce demand for capacity in the boarding schools.

   Most of the buildings at Stewart school in Nevada do not meet state-adopted structural standards for resistance to earthquake damage. Also, according to the recent facilities survey report, Stewart is grossly unsafe with regard to fire safety standards. Thus, to operate Stewart in compliance with structural earthquake and fire safety standards would require replacement of most buildings. A recent estimate of the cost to renovate Stewart included in the facilities review was $16.8 million.

   In view of the existence among the other ORBS in the Phoenix Area of capacity sufficient to accommodate all of the Phoenix Area ORBS students, and because the cost of replacing the Stewart facilities would be prohibitive, it is recommended that Stewart be closed at the end of the current school year. It should be noted that only 27 of the students at Stewart are from Nevada.

   Placement priority for the next (1980-81) school year at the other Phoenix Area ORBS (Phoenix, Sherman, and Intermountain) should be given to Stewart students who are from the Phoenix Area. If needed to accommodate students from outside the Phoenix Area presently in Phoenix Area ORBS, there is space available at Flandreau, South Dakota and at Chemawa, Oregon, where a new dormitory is under construction.

4. Because the State of Alaska has an educational high school boarding program which offers placements and transportation for either the special needs of a child or to overcome isolation, it is recommended that Mt. Edgecumbe be closed. The state program covers room, board and transportation at an average per student cost of $4,000. (The state cost however, does not reflect the $3,500 per pupil cost borne by the local school which the student attends).

   Federal funds appear to be supplanting state responsibility at Mt. Edgecumbe which has the high cost per ADM of $18,955.

   It is further recommended that the BIA should work with the State of Alaska to develop and implement a two-year phase-in of state assumption of educational boarding costs and phase-out of Mt. Edgecumbe as a BIA school.

5. It is recommended that first priority for placement in other BIA vacant positions be given to ORBS staff displaced by school closures.

B. Academic Improvement and Economies

1. It is recommended that a review of individual school academic teaching schedules be undertaken. Data from needs assessments indicate that some re-structuring of current staff skills is necessary to deal with a student body 2-5 grades below average. The high academic staff/student ratios at all schools (in the 1:6 -1:14 range) should provide excellent opportunities for small group interaction and individualized instruction, when appropriate.

C. Augmentation of Boarding/Home Living Staff

1. Because staff to student program ratios appear high for academic and low for home living, it is recommended that academic staff needs be stringently reviewed on a school-by-school basis for possible relocation of positions to an increased number of home living staff whose qualifications reflect more formal counseling skills.

2. A conclusion of the study was that the present formula system appears to substantially underallocate funds for the residential part of the ORBS program. No conclusion is drawn regarding on-reservation boarding schools which may have somewhat different cost factors such as part year boarding or weekday boarding only. The bureau is currently establishing standards to underpin the formula distribution system which up to this point has not been based on standards. New formula factors are to be incorporated into the 1981 allocations. It is recommended that the new formula factors for ORBS boarding be based on standards which will approximate the 1:25 and 1:50 day and night on duty staff discussed previously in this study.

D. Other Recommendations

The following recommendations are made to the Office of Indian Education Programs:

1. It is recommended that necessary steps be taken to ensure that key school administrative/supervisory vacancies are filled expeditiously.

2. It is recommended that cooperative school arrangements (defined as a program between public and BIA schools which makes academic and vocational subjects, not otherwise available, open for study by both groups of students), with local public schools should be considered for all boarding schools as a method of expanding both vocational and academic programs. Additionally when appropriate, cooperative school arrangements should be used as a means of allowing academic staff cutbacks in classes other than those for remedial and special education.

The local public schools, as an incentive beyond filling slowly declining classroom space, should be eligible to receive Johnson O'Malley (JOM) funds.

The JOM program allocates funds to meet the need of Indian students in public and previously private contract schools by providing supplementary support services for:

tutoring
home-school coordinators
cultural programs
parental costs
community recreation
work-study programs
summer activity programs
field trips

3. It is recommended that the Bureau re-emphasize its regulation against corporal punishment.

4. It is recommended that a family life course including survival skills (basic math, tax forms, job applications) should be required at both junior and senior high levels to ensure that students who transfer either in or out will have received training.

5. It is recommended that travel allowances for ORBS should be analyzed to ensure adequate funds to cover the multi-facets of a 24-hour-a-day student's transportation needs, i.e., medical, social, educational.

6. It is recommended that a system among the ORBS of sharing successful and unsuccessful practices, such as the adjustment/honor dorm programs at Stewart, should be developed. Such a system could assist the schools in learning from each other's successes and failures.

7. It is recommended that career education, a full term course whose object is to allow students to learn about a large variety of jobs, should be built into the curriculum of all ORBS and should be required at the 9th or 10th grade levels.

8. It is recommended that formal discussions with the Department of Health, Education, and Welfare be begun to better coordinate the provision of Indian Health Service remedial devices, such as glasses and hearing aids to the ORBS school children.

9. It is recommended that review and standardization of all schools' parental release forms for student off-campus activities be undertaken by the Office of the

Solicitor to ensure both that school liability is clearly defined and that parents are fully aware of all activities and conditions under which their child may be off-campus.

10. It is recommended that the alcohol and drug abuse prevention and treatment programs at schools be expanded and strengthened. Appropriate units of instruction at all grade levels should be incorporated.

11. Because public schools require their teachers to maintain a state certificate of instruction with its attendant constant up-grading of skills, it is recommended that all BIA teachers be required to hold a current state certificate.

12. It is recommended that a follow-up program be developed and implemented for graduates and dropouts to determine what's happening, to whom, when, and why. Current follow-up efforts are extremely limited or non-existent.

13. It is recommended that a periodic review be conducted of the efficacy of Off-Reservation Boarding Schools in light of the Bureau's policy "to educate all students as close to home as possible."

IV. Other Considerations

- The Director of the Office of Indian Education Programs should be aware of concern expressed about employee--school board relationships when P.L. 95-561 is fully implemented. Among the specific areas of concern identified were:

    1. The need for protection against capricious removal.
    2. Clarification of union relationships, rights, etc., if any.
    3. Plans to provide some form of tenure, if any.
    4. Clarification of the relationships of the local board in regard to day-to-day management of the school.
    5. Planned employee benefits under the new system.
    6. A belief that under P.L. 95-561 as Civil Service employees are phased out through attrition that only undesirable or minimally qualified applicants will be available under the year-to-year contract concept (in the absence of some form of tenure or other form of protection for incumbents).

Uncertainty about the system with its many ramifications for change in the careers of employees is creating some morale problems. Every effort should be made to speed up the process of sharing information with employees.

- The Director of Indian Education should, as better opportunities become available, require that other alternatives be thoroughly explored before boarding school placements for elementary students are approved.

APPENDIX I

DEPARTMENT of the INTERIOR

news release

BUREAU OF INDIAN AFFAIRS

For Release August 24, 1979 Lovett 343-7445

INTERIOR BEGINS STUDY OF OFF-RESERVATION INDIAN SCHOOLS

The Office of the Assistant Secretary of Indian Affairs and the Bureau of Indian Affairs in a cooperative effort with the Department of the Interior's Office of Budget have initiated a study of 14 off-reservation Indian boarding schools, Assistant Secretary of Indian Affairs Forrest Gerard announced today.

The purpose of the study to be completed this fall is to provide a basis for planning more effective and efficient uses of the facilities, funds and personnel of the schools.

Assistant Secretary Gerard said the off-reservation schools were "a priority issue demanding a resolution of some basic questions." He said he wanted "answers on the role and function of these schools, what students they would serve, how they fit into the comprehensive educational plans of the Bureau and what could be done to eliminate under-utilization and cost inefficiencies."

The off-reservation schools have generally served three groups of students: (1) those living in isolated areas with no suitable school accessible to them; (2) those with home or family problems and (3) those with social or educational problems. For this latter group, the off-reservation boarding schools have often been schools of last resort.

The review will be conducted through both on-site visits and documentary sources.

x x x

INT 3264-79

APPENDIX II

Individual Off-Reservation Boarding School Reports

Each of the following reports of the on-site review of individual Off-Reservation Boarding Schools (ORBS) begins with an introductory summary data page which uses the following terms:

Total Enrollment - the cumulative number of students enrolled at some time during the school year.

ADM - Average Daily Membership-number of students present at a school during specified periodic count weeks. Used as the basis for determining school financial requirements.

Current Enrollment - the number of students enrolled on the date of the site visit.

Authorized Enrollment - a BIA Area Office of Education determination of enrollment capacity based on many factors including condition of the facilities.

Projected ADM - An ORBS 1979-1980 ADM count as of the autumn "count weeks." This will be further updated during two spring count weeks to arrive at the average ADM figures used in distributing "3100" funds pursuant to the BIA education formula system. This count is usually higher than the spring count.

FY	Fiscal year - October 1 through September 30.
3100	a BIA financial account which encompasses academic, home living, pupil services, food services, and administration.
3500	a BIA financial account which reflects facilities operation, repair and maintenance costs.
Title	educational funds available for handicapped and special needs students under Title I and IV of the Elementary and Secondary Education Act of 1965.
IMPL	Indian Monies Proceeds of Labor, a BIA financial account which reflects funds raised by the school, through various revenue generating activities and sources.

Staff to Student Ratios - indicates the number of staff relative to the number of students. Also indicated in parentheses, following staff titles, are actual number of staff at the school.

IHS	Indian Health Service, part of the Public Health Service of the Department of Health, Education, and Welfare.

FLANDREAU INDIAN HIGH SCHOOL

Flandreau Indian High School, located in Flandreau, South Dakota, was reviewed on-site October 1-2, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	676
1978-79 School Year - ADM	366
Current Enrollment	426
Authorized Enrollment	580
1979-80 Projected ADM	423

Cost Data

FY 1979	3100	$2,169,009
FY 1979	3500	785,713
FY 1979	Other (Title, IMPL, etc.)	210,745
FY 1979	Per ADM - 3100	5,926
FY 1979	Per ADM - 3500	2,147
FY 1979	Per ADM - Total Program	8,649
FY 1980	Projected - 3100 Per ADM	4,982

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (36)	1:11.8
Total Dormitory Staff	1:20
On duty - day	1:50
On duty - night	1:120
Counseling	1:107
Social Services	1:426
Recreation Staff on Duty	1:50
Total Staff (132)	1:2.8

Additional Staffing Information

No School Psychologist

No resident doctor or nurse; medical services are available from IHS.

FLANDREAU INDIAN HIGH SCHOOL (Continued)

Academic Program

The last student needs assessment at Flandreau Indian School was conducted approximately 4 years ago. The data collected were used to plan the curriculum which currently follows the State approved course of study plus the courses noted below which are designed to meet identified needs:

- Education of the Handicapped
    - Learning Disabilities
    - Emotionally Mentally Handicapped
    - Visually Handicapped (one student)
- Vocational Education
    - Drafting
    - Food Service
    - Building Trades
    - Introductory Woodshop
    - Auto Body
    - Welding
    - Business
- Remedial Programs
    - Reading
    - Language Arts
    - Mathematics
    - Science

Flandreau has been accredited, both by the State and the North Central Association of Secondary Schools and Colleges for more than 20 years.

Many of the materials used in the academic program, particularly those related in the math department, are developed locally.

Home Living Program

The home living staff uses a behavior modification model that emphasizes rewards for good behavior and negative reinforcement in terms of extra duty, etc., for unacceptable behavior.

A part of the positive reward system includes residence in an "honor dorm" section.

Food Service Program

The Food Service Staff consists of 10 staff members including a foreman, a cook leader, cooks, a baker and food service workers. All students are assigned a work detail in the kitchen sometime during the year.

The staff follows a master menu which is approximately 2 years old. The menu was developed with the assistance of a dietition and appears to provide an adequately balanced diet.

Facilities

The overall condition of the various student use buildings at Flandreau appeared to be average. Fire alarms were in working condition and fire evacuation plans have been developed.

Other Relevant Information

Flandreau has been without an official Superintendent since December 1978. This has resulted in the designation of the principal to act as Superintendent which has had an attendent disruption in leadership of the ongoing academic program. The most frequently cited concern of staff was the lack of leadership due to the acting Superintendent only being able to "mark time" until a Superintendent is named.

The Building Trades Program appears to be excellent. Students are actually involved in the construction of houses (at virtually no expense to the Government) thereby gaining useful work/life skills.

Impressions

Staff members appear to be developing low morale due to the extended period of time without an official Superintendent.

The general appearance of the campus and buildings may have been an indication of a relatively low level of pride in Flandreau at the present time.

A great deal of credit is due the staff for the work done in developing the local math curriculum. Support should be given to their efforts to expand and unify the math and related curriculum areas.

Conclusions

The academic building, dorms, dining hall and gymnasium at Flandreau are basically sound buildings. The per ADM costs of the program are about average for the ORBS. Flandreau offers an excellent building trades program and some of the staff have been actually involved in the development of local math curriculum materials. The school is currently operating at approximately 75 percent of authorized capacity.

CHILOCCO INDIAN HIGH SCHOOL

Chilocco Indian High School, located in northern Oklahoma, 7 miles from Arkansas City, Kansas, was reviewed on-site September 19-21, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	407
1978-79 School Year - ADM	129
Current Enrollment	207
Authorized Enrollment	250
1979-80 Projected ADM	173

Cost Data

FY 1979	3100	$1,621,876
FY 1979	3500	758,240
FY 1979	Other (Title, IMPL, etc.)	221,620
FY 1979	Per ADM - 3100	12,572
FY 1979	Per ADM - 3500	5,878
FY 1979	Per ADM - Total Program	20,168
FY 1980	Projected - 3100 Per ADM	9,340

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (23)	1:9
Total Dormitory Staff	1:7
On duty - day	1:15
On duty - night	1:50
Counseling	1:100
Social Services	none
Recreation Staff on Duty	1:100
Total Staff (107)	1:1.9

Additional Staffing Information

One School Psychologist

No resident doctor or nurse; medical services are available 5 days per week from local physicians.

CHILOCCO (Continued)

Chilocco Indian School has served to educate Indian children since 1884. It is accredited by the State of Oklahoma and the North Central Association as a senior high school. It offers a general education program and vocational training in agriculture, auto body repair, auto mechanics, food preparation and service, welding, printing, building trades, heavy equipment operation, drafting, machine shop and laundry, office education. Title I reading and math and special education courses are offered. A needs assessment, involving staff and tribal groups has been conducted within the last 3 years.

Staff to pupil ratios (based on the September enrollment of 207) are: teaching positions 1:6; teachers on board 1:9. Of the students enrolled in September 1979, slightly more than half (52 percent) came from BIA agencies in the Aberdeen and Minneapolis areas. The students who are from Oklahoma come primarily from agencies in the Anandarko area.

Facilities at Chilocco are generally old; several of the buildings on the campus have actually been condemned and are unusable, and many would require extensive repairs to bring them up to reasonable standards of health and safety. Existing plant is inefficient and extremely expensive to operate.

Chilocco was built for a much larger student body than it can attract today. Operating costs are high; in FY 1979, operations, maintenance and repairs cost $758,240 or more than $5,878 per ADM. In FY 1978, these functions cost $824,000 or $4,200 per ADM. These costs are higher than similar costs at any other off-reservation boarding school. These very high operating costs coupled with what appears to be an overly large academic staff result in Chilocco having the highest overall costs per ADM of any of the off-reservation boarding schools.

Because the presently unused facilities at Chilocco are generally in poor condition, any significant expansion in enrollment would require major investments in either reconstruction or replacement of buildings.

FORT SILL INDIAN HIGH SCHOOL

Fort Sill Indian High School, located in Lawton, Oklahoma, was reviewed on-site September 5-6, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	256
1978-79 School Year - ADM	170
Current Enrollment	169
Authorized Enrollment	256
1979-80 Projected ADM	160

Cost Data

FY 1979	3100	$1,331,626
FY 1979	3500	409,520
FY 1979	Other (Title, IMPL, etc.)	104,519
FY 1979	Per ADM - 3100	8,536
FY 1979	Per ADM - 3500	2,625
FY 1979	Per ADM - Total Program	11,776
FY 1980	Projected - 3100 Per ADM	7,878

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (19)	1:8.2
Total Dormitory Staff	1:6
On duty - day	locked
On duty - night	1:16 special dorms 1:50 regular dorms
Counseling	1:78
Social Services	1:56
Recreation Staff on Duty	1:78
Total Staff (92)	1:1.7

Additional Staffing Information

No resident doctor or nurse; medical and psychological services are available through IHS less than one mile from the school.

FORT SILL INDIAN HIGH SCHOOL (Continued)

Academic Program

The school was accredited for the first time during the last school year. Twenty-six graduated last year. Current population by grade and sex of the school is:

Grades	Girls	Boys	Total
9th	18	16	34
10th	22	27	49
11th	22	20	42
12th	15	16	31

The average yearly turnover rate is 42-43 percent despite a quarter unit system of crediting subject completion. Upon leaving Fort Sill, most students go back to public schools. However, it is unknown if students complete their grade level upon return.

The attendance policy, according to the student handbook, gives a student an automatic F grade for five unexcused absences.

A strong career education program exists. One academic credit is required for graduation. Fifteen hundred occupations are reviewed. Students then select a limited number of high interest jobs for detailed review, with counseling assistance, to further learn about specific job requirements.

The Indian History class is not popular as it has only 4-5 students.

The Great Plains Area Vocational School in Comanche County is 10 miles away. Only three Fort Sill students are enrolled and travel there daily. Twenty-two different vocations are offered.

Achievement tests are administered to all students only at the beginning of the year. This is to assist in correct placement. However, with such a high turnover rate student progress is not being closely measured. More frequent testing of those involved in the special education programs occurs.

Home Living

A special drug and alcohol dorm exists for students with problems. Attendants are trained to work with students' problems to a greater degree than other dorm personnel. This program, with three levels of counselling intensity and restrictions, is modeled after one in Vernon, Texas.

The honor dorm, which could hold 40 students, has less restrictions for its occupants than a regular dorm.

Facilities

Most students are housed in modern dormitory facilities. However, the fire alarms are turned off in the girls dorm; and a manually operated horn is used.

Other facilities as a whole are old but in fairly sound condition. The school's priority for physical improvements is for upgraded sports facilities.

Recreation

The recreation schedule is repeated every 2 weeks. Although activities are scheduled daily after school, student participation is not mandatory.

Other

One staff member summed up the special strengths of an Indian school:

> "Indians teaching Indians can teach survival techniques in the world or community. It is the last chance for kids to determine their lives."

Conclusions

The Fort Sill total population of 156 is low. Even at its authorized capacity of 256, it remains, comparatively, a small high school. Sixty-five percent of the students are from Oklahoma with 55-60 percent living within a 75-100 mile radius.

RIVERSIDE INDIAN SCHOOL

Riverside Indian School, located near Anadarko, Oklahoma, was reviewed on-site September 5-6, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	352
1978-79 School Year - ADM	234
Current Enrollment	259
Authorized Enrollment	300
1979-80 Projected ADM	243

Cost Data

FY 1979	3100	$1,904,158
FY 1979	3500	428,293
FY 1979	Other (Title, IMPL, etc.)	183,280
FY 1979	Per ADM - 3100	8,138
FY 1979	Per ADM - 3500	1,830
FY 1979	Per ADM - Total Program	10,751
FY 1980	Projected - 3100 Per ADM	7,489

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (22)	1:11.8
Total Dormitory Staff	1:8
On duty - day	1:45
On duty - night	1:25
Counseling	1:65
Social Services	1:259
Recreation Staff on Duty	1:75
Total Staff (115)	1:2.2

Additional Staffing Information

No resident doctor or nurse; medical and psychological services are available through IHS.

RIVERSIDE INDIAN SCHOOL (Continued)

Academic Program

Riverside Indian School has been accredited both by the State of Oklahoma and North Central for more than 10 years. Both organizations conducted accreditation reviews during the 1978-79 school year.

A student needs assessment was conducted in 1976 by Dr. Tom Hopkins of IERC. The assessment identified several areas of student need which were considered in ensuing curriculum modifications. Among the needs identified were:

- Personality Development
- Family Awareness
- Reading/Mathematics Deficiencies
- Learning Disabilities
- Educable Mentally Handicapped Students
- Career/Vocational Awareness

A variety of curricular offerings at Riverside are directed at overcoming these problem areas. In addition, selected students are scheduled on a part-time basis at the Regional Vocational-Technical School.

Home Living Program

As noted earlier, two dorms are being remodeled which limits Riverside's functional capacity. Current practice is to house two students per dormitory room which is in line with accepted standards for space and privacy. The facility inventory report recommends demolishing several of the "cottage" dormitories and housing students in the larger dorms. This would require housing approximately four students per dorm room with the attendant loss of space and privacy. The administration and staff at Riverside expressed the belief that, to a considerable extent, student behavior has been positively influenced by the use of the cottage dorms.

Food Services

The staff at Riverside follows a master menu which is reviewed and modified yearly to take advantage of available food supplies and special needs. The prepared food was pleasing in appearance and the menu provides an excellent variety. The menu appears to meet existing nutritional standards.

Facilities

Riverside Indian School appears to be well maintained. Staff and student pride were evidenced through the general appearance of the campus and buildings. The recent facilities review recommends that a number of buildings be demolished. Consideration of the impact on the quality of program offered should be given before a decision to implement those recommendations is made, particularly in regard to the Cottage Dorms.

According to the staff, all fire alarms and basic safety equipment are operational.

Other Information Worth Noting

Riverside Indian High School stands alone among the Oklahoma schools as the one school that has not only reached its current functional enrollment capacity but also has a waiting list.

Impressions

Staff and students alike at Riverside expressed a high degree of support for the school. The staff in particular cited a strong belief that Riverside serves a "special" clientele that, at best, would be inadequately served by state and private schools. Emphasis was given to the special concern for students that may have no other resource available.

As an item of interest, it was observed that many of the offices contain a radio-TV combination. This raises the question of justification of purchases in terms of benefit to students.

Conclusions

The facility at Riverside is basically in safe and usable condition. The dorms can be upgraded at a reasonable cost, if needed. The per ADM cost for the program at Riverside is a little above average for the ORBS in general. Should a decision be made to close either Ft. Sill or Chilocco, the four cottage dorms would require repairs to enable housing additional students.

If additional students are not placed at Riverside consideration should be given to closing the four cottage dorms.

SEQUOYAH INDIAN HIGH SCHOOL

Sequoyah Indian High School, located near Tahlequah, Oklahoma, was reviewed on-site October 3-4, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	249
1978-79 School Year - ADM	172
Current Enrollment	222
Authorized Enrollment	437
1979-80 Projected ADM	222

Cost Data

FY 1979	3100	$1,515,521
FY 1979	3500	568,782
FY 1979	Other (Title, IMPL, etc.)	74,000
FY 1979	Per ADM - 3100	8,811
FY 1979	Per ADM - 3500	3,306
FY 1979	Per ADM - Total Program	12,547
FY 1980	Projected - 3100 Per ADM	6,353

Staff to student Ratios (1979-80 Current Enrollment)

Teachers (23)	1:9.6
Total Dormitory Staff	1:22
On duty - day	1:74
On duty - night	1:74
Counseling	1:74
Social Services	1:222
Recreation Staff on Duty	1:74
Total Staff (102)	1:2.2

Additional Staffing Information

- Psychological services available on a limited basis from IHS, and through private contract sources and local guidance center.
- No resident doctor; medical services are available through IHS. A nurse is on the premises 2-1/2 days per week.

SEQUOYAH INDIAN HIGH SCHOOL (Continued)

Academic Program

Sequoyah has a highly trained academic staff. Of the 23 who are teachers, 22 have Master Degrees. Though fully accredited by North Central the January 1979 review recommended either vocational technical education classes or using one of the area vocational schools as soon as possible to meet the needs of the students.

An agricultural program of calf raising does exist. One hundred and fifty cattle are in the herd. Eleven students were involved in the calf raising project last year.

The average student is 3-4 years behind academically and is part of the 75 percent who are there as a result of social admittance criteria. There are 45 9th graders, 57 sophmores; 65 juniors, and 55 seniors.

Twenty students are involved in special education classes.

The delayed entry academic program is State approved and allows a student to get a full half credit for a course by putting in the total 90 hours required for credit even though he or she may have arrived late in the term. Twenty-five students used this program to their advantage last year.

Additional assistance to the school is provided from the nearby Northeastern Oklahoma State University. University student interns who work for 18 months at Sequoyah both gain experience and provide service.

No career education program exists as a requirement. Two senior girls did not know about the existence of BIA scholarships.

One student indicated that not enough was expected academically.

Home Living

The home living on-duty staff to student ratio of 1:74, both day and night is high. The chance for a student to be able to talk with a staff member when a problem needs discussing is very low in this circumstance when all staff responsibilities are considered.

Some girls, who were interviewed, felt that an unfair dual system of rules existed: one for boys, one for girls. It was reported that girls had to get up a half-hour earlier in the morning and had to "work off" rule infractions in the dorms while the boys did not.

Some boys felt that boys did not have enough restrictions on them. One said, "You can do anything in the dorms."

A majority of students go home on weekends. Several students are from Tahlequah.

Recreation

An evening crafts program taught by the recreation staff, evidenced much student interest. The recreation hall was well utilized.

Students are involved in running the student store in the recreation hall and the golf course which is open to the public for the comparable local green fee of $1.50.

Student Work Details

Eight students work one meal each day and are paid by the Comprehensive Employment Training Act (CETA). Twenty-five to 30 students are on dining room detail for clean-up service on a school-wide rotating basis.

Facilities

Overall the school has a bright, attractive appearance. The academic and dormitory facilities being used are modern and in good condition.

Dorm walls were decorated in the manner of teen-agers and appeared quite homelike. However, religious pictures were inappropriately displayed in the entry hall of the girls dorm.

To be able to house its authorized enrollment of 437, Sequoyah would need to renovate a large, basically sound but old dormitory located mid-campus.

Safety

Overall the school appears to have met health and safety codes. However, an asbestos check revealed that hazardous asbestos was found in the girls gym and around the kitchen water pipes. Some steps have been taken to rectify the circumstance though operation and maintenance staff were unclear as to whether all hazards have been eradicated.

The school has smoke alarms in dorms.

Finance

The IMPL account had $19,000 in it at its highest budget level last year. Approximately $14,000 was spent for hay bailing, purchase of cattle and equipment, and veternarian services.

Staff Comments

One staff member recommended that students need to have a study hour in dorm. Because they do not, it was reported that students are given half of their class periods to prepare lessons. As a result, they are receiving only one-half of the instruction a student would in a regular classroom.

Other staff members suggested that students' education is not being directed at living in the society; they need to be taught how to fill out job applications, fill out income tax forms,and learn how to communicate better; that teachers need to raise education and competition levels in classrooms; that students need more counselling because there are a lot of hyperactive kids; that a need exists for separate schools for court referred kids because (a) they are hard to control, and (b) they set bad examples of lack of control for others.

MT. EDGECUMBE HIGH SCHOOL

Mt. Edgecumbe High School, located on Japonski Island west of the town of Sitka, Alaska, was reviewed on-site on September 13-14, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	436
1978-79 School Year - ADM	365
Current Enrollment	400
Authorized Enrollment	406
1979-80 Projected ADM	393

Cost Data

FY 1979	3100	$3,451,637
FY 1979	3500	3,283,922
FY 1979	Other (Title, IMPL, etc.)	183,134
FY 1979	Per ADM - 3100	9,456
FY 1979	Per ADM - 3500	8,997
FY 1979	Per ADM - Total Program	18,955
FY 1980	Projected - 3100 Per ADM	7,934

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (39)	1:10.2
Total Dormitory Staff	1:9.5
On duty - day	1:50
On duty - night	1:50 regular dorms 1:13 special dorms
Counseling	1:40
Social Services	1:200
Recreation Staff on Duty	1:50
Total Staff (192)	1:2.8

Additional Staffing Information

Psychological services are available through IHS or contract.

Medical services are provided through IHS.

MT. EDGECUMBE HIGH SCHOOL (Continued)

Academic Program

Mt. Edgecumbe was accredited by the Northwest Association of Schools and Colleges in 1977. Twenty-four students are in special education.

The school student population has declined from 700 to its current 400 over the past several years. The State of Alaska Boarding Program (which is discussed later in this paper) has had a large impact on enrollment. However, according to the Superintendent, many current students are drop-outs from that program. That may account for the older average age of 16 for freshmen. Ninety-four of the 400 students are 18 years or older. The turnover rate last year was 29 percent. A needs assessment, which has been conducted in the last 2 years has involved questions to both students and teachers.

As a result of a recent vote by parents and students on whether to have a Christmas vacation or not, a majority of students voted to stay. (Approximately 25 percent do not return to school after that break in a normal year.)

All students are required to take driver's training before graduation because some students have never had access to an automobile.

The one-year shop course requirement for all seniors appears to be directed to supporting the shop staff. Enough equipment to support multiple shop learning centers fills the huge airplane hanger. Even with the requirement for students to take shop courses, it was severely under-utilized. Freshmen are also required to take shop or economics.

A large band of approximately 75 students was preparing for an Alaska Day performance. Most band students had never played an instrument before coming to Mt. Edgecumbe.

Teachers tutor in the dorm at night for overtime pay.

The school has its own FM radio station - KMTE at 100.1. It does not advertise and is used at some intervals for students training.

An extensive library and media center are available for student use.

There are 12 coaches.

Home Living

An honor section for girls exists in a portion of the regular dorm complex. A total of 190 girls are housed in a facility which used to house at least 60 more students on the now unused top floor.

The boys dorms have a bombed-out interior apperance. No interior doors exist because some boys break them and the frames. In contrast, the most attractively painted facility on campus was a small dorm being prepared for visiting athletics teams who traditionally treat the facilities roughly. The Superintendent remarked on the disparity of condition of the two facilities.

Additional dorms exist for students who have special social adjustment or drug dependence problems. Staff to student ratios here are higher.

A containment center, for out-of-control students, is used sporadically. It consists of eight small, windowless, rooms furnished only with a mattress. The door to each has one small window and a lock. The facility is staffed only when a student is present. Procedures exist for notification of both the Superintendent and the head of pupil services when a student is placed there.

Pupil Services

Counselors see every student four times a quarter and also counsel in dorms four nights of the week.

Facilities Management

The basic facility is an old air base used by six separate Federal Agencies.

Only 35 percent of work of the facilities management staff is for Mt. Edgecumbe School, while 65 percent is for other Federal Agencies:

Indian Public Health
Coast Guard
General Services Administration
Federal Aviation Administration
Forest Service

These agencies are charged, on a reimbursable basis, 30 percent overhead on all work other than the 20 percent on laundry.

Heating 400,000 square feet of buildings on the island with steam costs approximately $1 million/year according to Albert Wilson, Director of Facilities Management. The physical plant is the original one.

However, according to the Superintendent other agencies are beginning to build up their individual facilities management staffs and are not using the school services as much.

The Indian Health Service is reportedly behind in its payments by a major amount of $600,000 to $1,000,000.

When asked the value of the O&M physical inventory, the Superintendent did not know, but agreed that it probably was at least $1 million.

The facilities management study suggests demolition for many of these World War II frame buildings. The operation and maintenance budget for this facility is almost one-half of the $6,918,693 cost of Mt. Edgecumbe School.

Staff Comments

Many felt there had been improvement in discipline under Superintendent Demmert and that the school was turning itself around.

One staff member suggested that a teachers' morale problem has existed since last summer when some were requested to mow lawns as part of their duties as assigned.

Other

- Students knew and greeted Superintendent Demmert in a warm manner. He knew most by name.

- The 192 staff provides a high total staff to student ratio which is not reflected in direct work with the students.

- The Alaska Department of Education has a Secondary Boarding School program currently available to students through their local school district based on either:

  a. lack of daily access to a school of appropriate grade level by being transported to a reasonable distance; or,

  b. special needs of child having daily access to school program of appropriate level.

In a telephone conversation on October 13, 1979, with Kenneth Grieser, Deputy Director of Management, Law and Finance Division of the Alaska Department of Education, it was learned that the State is currently boarding 500 seventh through twelfth graders for an annual cost of $2 million or $4,000 per child.

The $4,000 does not include the academic costs borne by the local school district. However, Johnson O'Malley (JOM) funds would be available as a supplementary source to any district educating the Alaska natives who are enrolled in Mt. Edgecumbe. Provisions for parental involvement in the choice of school and boarding location is incorporated in the Alaska Administrative Code provision* as well as transportation to and from the school.

The Alaska Department of Education's Boarding Program, enacted in 1975 serves many of the purposes of Off-Reservation Boarding Schools. A major policy of the program is to provide a school to both geographically isolated students and to students who have special needs. Since the boarding location under the Alaska law is chosen by the parents of the student, opportunity for more direct control, closer to home is possible - and probable.

* See attachment.

ALASKA ADMINISTRATIVE CODE: CHAPTER 4, SECTION 09.050

SECONDARY BOARDING PROGRAMS

not provided, tuition shall be billed to the school district from which the pupil has come and that district shall be required to accept the billing; in case of a pupil resident in one school district but optionally attending another school district and where the necessary grade level is provided in the home district, no tuition charge may be made to the home district unless the district of residence waives attendance requirements for the particular pupil and agrees to accept billing; if the home district will not accept the billing, the school district may bill the parent or guardian for tuition in the manner outlined in (8) of this section;

(7) tuition may not be billed for pupils for whom contractual or other similar arrangements have been made in lieu of tuition;

(8) repealed. (Eff. 9/3/76, Reg. 59). (In effect before 7/28/59; am 6/9/61, Reg. 3; am 10/14/68, Reg. 27; am 8/30/75, Reg. 55; am 9/3/76, Reg. 59)

Authority: AS 14.07.020(1) AS 14.07.060
AS 14.07.030(10) AS 14.14.110

4 AAC 09.040. FUNDING OF CORRESPONDENCE PROGRAMS. Students enrolled in approved correspondence study programs will be counted for enrollment and funding purposes as follows:

(1) each elementary student equals one full-time equivalency (FTE);

(2) each secondary student enrolled for four or more carnegie units of work for the year or two or more carnegie units for the semester equals one FTE;

(3) each secondary student enrolled for less than four carnegie units of work for the year, or less than two units for the semester, will be counted as a fractional FTE based on the number of units actually being taken divided by four or two, respectively. (Eff. 9/9/75, Reg. 56)

Authority: AS 14.07.020 AS 14.17.022
(1),(2) and (9) AS 14.17.200
AS 14.07.060 AS 44.27.020(1)

4 AAC 09.050. SECONDARY BOARDING PROGRAMS. (a) The governing body of a district shall make available, at no cost to the student or his parent, a basic boarding program to all secondary school age children in the district who do not have daily access to a school of the appropriate grade level by being transported a reasonable distance.

(1) A basic boarding program must provide for each student

(A) suitable living accommodations including room and board and supervision while the student is not in school which satisfy the applicable requirements of state law and regulations;

(B) round-trip transportation to and from the student's usual home; and

(C) daily access to a school offering the appropriate grade level.

(2) Students in a basic boarding program shall be placed in accordance with their best interests, taking into account special educational needs.

(3) To qualify for funding by the department of education, a district's basic boarding program must satisfy the requirements of (1) and (2) of this subsection. Applications for funding must contain the following:

(A) the name, village and grade level of each student;

(B) the location of each student's boarding placement; and

(C) a budget showing transportation, room and board, and out-of-school supervision costs.

(4) Costs for items other than transportation, room and board, and out-of-school supervision must be borne by the district.

(b) The governing body of a district may provide, at no cost to the student or his parents, a supplemental boarding program open to secondary-school-age children in the district who have daily access to a school program of the appropriate grade level, but who have special needs that cannot be provided for in their local school program.

(Continued)

(1) A supplemental boarding program shall provide for each student

(A) suitable living accommodations including room and board and supervision while the student is not in school which satisfy the applicable requirements of state law and regulations;

(B) round-trip transportation to and from the student's usual home; and

(C) daily access to a school offering the appropriate grade level.

(2) Criteria for eligibility and participation in a supplemental boarding program must be established by the governing body. Notice of the eligibility criteria must be provided at least annually to the parents of the children who have daily access to a school of the appropriate grade level.

(3) All costs of a supplemental boarding program must be borne by the district unless funds are otherwise provided by the state or federal government.

(c) No student may be suspended or expelled from a boarding program without due process of law. A student suspended or expelled from a boarding program is not thereby considered unavailable to attend a local secondary school required by 4 AAC 05.040. (Eff. 9/3/76, Reg. 59)

Authority: AS 14.07.020(1) and (2)
AS 14.07.030(5) and (10)
AS 14.07.060

CHAPTER 12.
CERTIFICATION OF PROFESSIONAL PERSONNEL

Section

10. Certification of teachers
20. Regular certificate (Type A)
30. Administrative certificate (Type B)
40. Special services certificate (Type C)
45. Professional certificate
50. Vocational trades certificate (Type D)
60. Endorsements
70. Letter of authorization
80. General provisions
90. Prior commitments
100. Definitions

4 AAC 12.010. CERTIFICATION OF TEACHERS. (a) All teachers in public and state approved nonpublic schools shall be at least 18 years of age and shall obtain an Alaska teacher's certificate unless they are participating in an approved exchange program.

(b) The following shall be submitted by teachers in applying for a certificate:

(1) completed application; must be notarized;

(2) an official transcript of all college work;

(3) certificate fee.

(c) Transcripts and other required documents shall become a part of the teacher's permanent records and shall remain on file with the Department of Education.

(d) Certificates shall be dated as of the date the completed application, transcripts, experience record, and fee are received, and shall remain effective until the expiration date indicated on the certificate.

(e) Neither the state nor a district school board shall pay a salary to any teacher who has not obtained a valid Alaska teaching certificate.

(f) Nonpublic schools which employ noncertificated teachers shall not be approved by the state, or if approved, shall be dropped

INTERMOUNTAIN INDIAN HIGH SCHOOL

Intermountain Indian High School in Brigham City, Utah, was reviewed on-site October 17-18, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	994
1978-79 School Year - ADM	701
Current Enrollment	708
Authorized Enrollment	1500
1979-80 Projected ADM	723

Cost Data

FY 1979	3100	$6,289,458
FY 1979	3500	1,498,688
FY 1979	Other (Title, IMPL, etc.)	353,000
FY 1979	Per ADM - 3100	8,971
FY 1979	Per ADM - 3500	2,138
FY 1979	Per ADM - Total Program	11,612
FY 1980	Projected - 3100 Per ADM	7,614

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (82)	1:8.6
Total Dormitory Staff	1:7.6
On duty - day	1:27
On duty - night	1:50
Counseling	1:75
Social Services	1:187.5
Recreation Staff on Duty	1:50
Total Staff (340)	1:2.1

Additional Staffing Information

A School Psychologist is furnished by IHS.

No resident doctor; medical services are available 5 days a week from IHS. Resident nurses are provided by IHS.

INTERMOUNTAIN (Continued)

Intermountain Inter-Tribal Indian High School was originally established in 1950 to serve the Navajo Tribe exclusively, but now has a student body representing more than 90 tribes from all over the United States.

The school offers programs in general education, college preparation and vocational education. Special programs include General Education Development (G.E.D.), Air Force Junior R.O.T.C., and the unique Solo Parent program under which up to 30 unwed teen-age mothers can continue their education and also learn to care for their children. The school is fully accredited by the State of Utah and the Northwest Association.

For the current level of enrollment, Intermountain is over-staffed on the academic side, but it appears to be adequately staffed on the home living side.

The food service program appears to be adequate. Health services are provided by an Indian Health Service clinic on campus, the staff of which works closely and effectively with the school staff.

Intermountain's facilities are generally in good condition and adequate to the school's needs. Because the facility was originally a World War II military hospital, its layout and construction are not as efficient as they might be.

Intermountain's programs seem to be quite effective in providing a structured environment in which students, who have failed to come to terms successfully with schooling elsewhere, can do so. The Solo Parent program is an especially encouraging example of an innovative approach to what appears to be intractable problems.

PHOENIX INDIAN HIGH SCHOOL

Phoenix Indian High School, located in Phoenix, Arizona, was reviewed on-site September 13-14, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	768
1978-79 School Year - ADM	680
Current Enrollment	581
Authorized Enrollment	750
1979-80 Projected ADM	516

Cost Data

FY 1979	3100	$2,602,979
FY 1979	3500	821,855
FY 1979	Other (Title, IMPL, etc.)	153,552
FY 1979	Per ADM - 3100	3,828
FY 1979	Per ADM - 3500	1,209
FY 1979	Per ADM - Total Program	5,263
FY 1980	Projected - 3100 Per ADM	4,978

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (43)	1:13.5
Total Dormitory Staff	1:12.3
On duty - day	1:45
On duty - night	1:100+
Counseling	1:100+
Social Services	none
Recreation Staff on Duty	1:60
Total Staff (169)	1:3.4

Additional Staffing Information

One Staff Psychologist available 24 hours per week. Other psychological services available from IHS.

No resident doctor or nurse; medical services are available daily from IHS.

PHOENIX INDIAN HIGH SCHOOL (Continued)

Academic Program

Arizona does not provide accreditation for schools that are accredited by a Regional Association. Phoenix Indian High School has been regionally accredited for more than 10 years with the last regional review taking place during the 1978-79 school year.

Phoenix offers a basic high school curriculum. A student needs assessment was completed in April 1977. Assessment activities involved the total staff and student body. Programs implemented to meet identified needs of students include:

- Learning Disabled
- Emotionally Disturbed
- Preparation for G.E.D. Testing
- Alcohol and Drug Abuse
- Vocational-Technical, Career Exploration
  - Sewing
  - Mechanical Drawing
  - Drafting
  - Woodwork
  - Metals
- Indian Heritage/History
- Indian Arts and Crafts I and II

Home Living Program

Phoenix has initiated two special home living projects to enhance their students' social development through structured behavior modification. Two dorms are co-educational with one being operated as an honor program and the other as an alternative dorm. The honor dorm rewards students with special privileges. The alternative dorm is used as a "last resort" before expulsion. Programs in the alternative dorm are highly structured and quite restrictive. Efforts are made in this program to help sutdents restructure their patterns of behavior and earn their way back into regular dormitory program.

Food Services Program

The Phoenix Food Service staff consists of a cook foreman, five cooks, a food service worker foreman, and four students are used in the program with each assigned a once per year detail of approximately 6 weeks duration. The staff follows a master menu which was developed with the assistance of a dietitian. The food was pleasing in appearance and no student complaints were registered concerning either quality or quantities served.

Facilities

The facilities at Phoenix Indian School appear to be above average for a typical high school, whether BIA or public. According to the staff, the facilities meet existing safety codes with the exception of the fire alarm systems that are under repair in two dorms.

Impressions

A rather universal belief exists among the staff at Phoenix Indian High School that Phoenix serves a student population that would not otherwise be receiving an education. At the same time, however, there appears to be some lack of clarity concerning more specific departmental and/or individual objectives. Some work in this area of concern should result in an enhanced program for students.

The alternative dorm concept, to be successful, will require much better staffing than is currently available. The current staff to student ratio does not provide for any special interaction between staff and students as a means of correcting "acting out."

Phoenix currently has an acting Superintendent. The position should be filled as expeditiously as possible.

SHERMAN INDIAN HIGH SCHOOL

Sherman Indian High School, located in Riverside, California, was reviewed on-site September 17-18, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	761
1978-79 School Year - ADM	589
Current Enrollment	696
Authorized Enrollment	650
1979-80 Projected ADM	623

Cost Data

FY 1979	3100	$2,851,107
FY 1979	3500	946,622
FY 1979	Other (Title, IMPL, etc.)	165,745
FY 1979	Per ADM - 3100	4,840
FY 1979	Per ADM - 3500	1,607
FY 1979	Per ADM - Total Program	6,728
FY 1980	Projected - 3100 Per ADM	5,264

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (49)	1:14.2
Total Dormitory Staff	1:12
On duty - day	1:65
On duty - night	1:125
Counseling	1:139
Social Services	1:696
Recreation Staff on Duty	1:87
Total Staff (178)	1:3.9

Additional Staffing Information

Resident nurse is provided by IHS.

No resident doctor or psychologist. Services are available 5 days per week from IHS.

SHERMAN INDIAN HIGH SCHOOL (Continued)

Academic Program

Sherman Indian High School has conducted a variety of needs assessment activities. As a result of these efforts to determine the needs of student, a variety of programs have been included in the local curriculum. Among those included are:

- Basic state approved course of instruction
- Special Education program
  - Learning Disabled
  - Emotionally Disturbed
- On Campus Vocational Education
  - Small Engines
  - Institutional Cooking
  - Bachelor and Bachelorette Living
  - Woodshop
- Vocational-Technical Education through a Regional Occupation Program
  - Appliance Service Technology
  - Auto Tune-up
  - Child Development
  - Dental Hygiene
  - Floral Design
  - Medical Occupations
  - Office Occupations

Sherman has been regionally accredited for the past eight years by the Western Association of Secondary Schools and Colleges. The State of California does not provide accreditation service to regionally accredited schools as a regional association standards are equal to or higher than those imposed by the state.

Home Living Program

Sherman has several new student apartments which will provide Senior students an opportunity to gain experience in bachelor/bachelorette living.

The dorms are well maintained and show signs of both student and staff pride by the quality of care they are receiving. Sherman also operates an honor dorm which provides special privileges for students as rewards in behavior modification.

Food Service Program

The Food Service staff consists of a Cook Foreman, 6 Cooks, and 4 Food Service Workers. The staff at Sherman follows a master menu. The menu was updated this year. The staff of the Food Services Department assists in training interested students in institutional cooking. Approximately 10 percent of the students are used in the Food Service program.

Other Relevant Information

The facilities at Sherman Indian High School are probably the best in the Bureau of Indian Affairs. A great deal of pride is evidenced by students and staff alike in Sherman through the quality of day-to-day care the campus and buildings receive. This school is currently up to capacity in the residential care program as two dormitories are not being used for student housing.

To activate these dorms would require additional staff and building repairs. The architectural/engineering work is being completed. Actual repair should follow.

Impressions

Two major concerns of staff were the need for substitute teachers and long-term delays in getting new staff on board when personnel actions are submitted.

Many staff members received training in Reality Therapy during the past year and are attempting the incorporate some of these concepts into their student relationships. This appears to be resulting in healthy staff-student relationships and increased student awareness of personal responsibility.

STEWART INDIAN HIGH SCHOOL

Stewart Indian High School, located outside of Carson City, Nevada, was reviewed on-site September 19-20, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	497
1978-79 School Year - ADM	403
Current Enrollment	437
Authorized Enrollment	450
1979-80 Projected ADM	409

Cost Data

FY 1979	3100	$2,323,509
FY 1979	3500	828,029
FY 1979	Other (Title, IMPL, etc.)	146,596
FY 1979	Per ADM - 3100	5,765
FY 1979	Per ADM - 3500	2,055
FY 1979	Per ADM - Total Program	8,184
FY 1980	Projected - 3100 Per ADM	5,584

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (39)	1:11
Total Dormitory Staff	1:12.5
On duty - day	1:60
On duty - night	1:100+
Counseling	1:73
Social Services	1:437
Recreation Staff on Duty	1:175
Total Staff (122)	1:3.6

Additional Staffing Information

One School Psychologist

No resident doctor or nurse; medical services are provided by IHS.

STEWART INDIAN HIGH SCHOOL (Continued)

Academic Program

Stewart Indian High School has been accredited by the Northwest Association of Schools and Colleges for 5 years.

At student needs assessment, involving both staff and students was conducted during the 1978-79 school year.

The Curriculum at Stewart Includes:

- Basic State approved course of study
- Work-Learn (CETA and off-campus)
- Experience Based Career Education
- Vocational Courses
    - Ranch Management
    - Heavy Equipment
    - Wood Shop
    - Drafting
    - Painting
- Therapeutic Recreation including Psychological and Social Services (this program is specially funded by the IHS)
- Special Education
    - Emotionally Disturbed
    - Emotionally Mentally Handicapped

The administration and the staff have been involved in dialogue concerning the development of individual education plans for all students. If and when this is accomplished, it should have the potential to greatly enhance the educational opportunities for all students at the school.

Home Living Program

Stewart has initiated special honor and adjustment dorms as a means of modifying behavior. Students in the honor dorm receive numerous extra privileges in reward for earning residence in the dorm while students housed in the adjustment dorm live in a highly structured environment with few privileges or amenities. Students are assigned to the adjustment dorm as a final attempt to improve behavior before expulsion. Students assigned to the adjustment dorm must "earn" their way back to the regular dorms.

Indian Health Service (IHS) and Stewart are involved in a specially funded IHS project (Therapeutic Recreation). This program provides a variety of services, primarily related to recreation and other out-of-class activities. It, however, also provides psychological and school social work services. Stewart has also advertised for a staff social worker.

Food Services

The food services program at Stewart is contracted. The contractor follows a master menu and also uses approximately 10 percent of the students on work details.

Facilities

The buildings at Stewart, for the most part, are native stone. These buildings, apparently, do not meet current standards for structural support in earthquake country and, as a result, many are condemned.

Fire alarms are in working condition in most buildings. Contracts have been let to repair the systems/install new systems in the dorms.

Impressions

The positive/negative reinforcement concept in operation through the honor and adjustment dorms appears to be a major plus at Stewart. A number of staff members noted that the system has tremendous potential for positive modification of student attitudes and behavior. Another program that appears to have high potential for student development is the Experienced Based Career Education program (EBCE).

CHEMAWA INDIAN HIGH SCHOOL

Chemawa Indian High School, located near Salem, Oregon, was reviewed on-site on September 17-18, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	276
1978-79 School Year - ADM	188
Current Enrollment	236
Authorized Enrollment	400
1979-80 Project ADM	219

Cost Data

FY 1979	3100	$2,471,349
FY 1979	3500	641,804
FY 1979	Other (Title, IMPL, etc.)	194,674
FY 1979	Per ADM - 3100	13,144
FY 1979	Per ADM - 3500	3,414
FY 1979	Per ADM - Total Program	17,593
FY 1980	Projected - 3100 Per ADM	10,254

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (30)	1:7.9
Total Dormitory Staff	1:5
On duty - day	1:32
On duty - night	1:32
Counseling	1:69
Social Services	1:236
Recreation Staff on Duty	1:75
Total Staff (115)	1:2

Additional Staffing Information

No resident doctor, nurse or psychologist. Medical services are available through IHS less than one mile from the school.

CHEMAWA (continued)

Academic

On November 9, 1979, a new $22 million school to accommodate 600 students was opened at Chemawa.

The school uses a five-quarter credit system to give academic credit. It makes completion of high school in three years possible. Last year, Chemawa had 27 graduates.

The remedial special education instruction program appeared to be over staffed for the numbers of students enrolled.

The library is open during evening hours. A study hour after dinner is enforced and appears to be a positive structuring of the students' evening hours.

Though a computer assisted learning program of 108 careers exists at the school, it is not being used for a career education course.

Home Living

Ground is broken for a new 400 student dormitory which is programmed for completion in the fall of 1980. Students will continue to live in the multi-trailer units until that time.

Little space for relaxation other than the recreation hall was available for students. During the warm weather, they sat outside. Most dorms had only one small room for relaxation in each trailer unit which holds 32 students plus staff. The sleeping rooms hold two students and are small.

Student patrols are utilized, in addition to regular paid adult staff members, to keep order between 6-10 p.m., on weekdays.

Group counseling sessions called "leveling" are held to assist students in their social and educational adjustment.

Student Control

The merit system remunerates students for participating in all aspects of what could be considered regular daily life in a school. A student gains points for going to class, keeping the rooms neat, doing details, etc. Merits then may be used to pay for movies and other activities. A student may receive up to $5.00 a week under this system.

Forty percent of the students were reported to have attacked a non-academic staff member during the last year.

Finance

The IMPL account garners funds from (1) land leases, (2) cost reimbursement from school construction utility use, and (3) reimbursement for computer service. The latter two appear to be generated from BIA revenues and not traditional sources. Twelve thousand dollars in student and employee travel were paid from the account last year.

One student proctor assists dorm aides per week for $10 which comes from the IMPL account.

Drug and Alcohol Program

The Chemawa Alcoholism Education Program is a counseling center funded by the National Institute on Alcoholism and Alcohol Abuse and is staffed by eight persons. It provides classes in self and drug awareness. It incorporates elements of the Alateen program.

Though this building is the most comfortable and home-like on the whole campus, it has a containment center for students who are out of control through alcohol or drug use. It is a small cubicle with only a window in the door. A mattress is on the floor. Staff report that it is never locked; and that students are never left inside for more than 15 minutes.

Student Views

Some students did not feel that the rules were fairly applied when a rule was broken.

Other students indicated that the lack of recreation was a bad problem.

Staff Comments

Many staff felt the opening days of school saw this year off on a good foot and on a more positive track than in the previous year. No one was sure what was different. However, the program which gave monetary incentives for good behavior and class attendance, greater structure in dorms, and evening study hours were suggested as possible reasons for the change.

Some staff in dorms felt that an unspecified situation of favoritism in the dorms by a few staff toward selected students was going to "blow up" soon.

Other staff felt that some kids who were designated leaders for the purposes of control were some of the behavioral problem kids. A staff person felt that negative behavior should not be rewarded in the manner it was.

One Indian staff member who had attended a boarding school believed that off-reservation boarding schools were an anachronism in today's world and believed that integration into the larger society was an important part of learning to deal with every day life. Another former Indian boarding student, who is also now staff, believed that the schools still meet a real need and should continue to exist.

Some dorm staff believed that training was needed prior to starting the job and believed that individual dorm managers (for 32 kids) was superfluous.

Other

- The reviewer met with the Chemawa School Board: Olney Patt, Sr., Chairman; May Taylor; Linda Harrison; Violet Hillaire; and Lawrence Kenmille. The Board felt that this special school exists to meet the needs of the Indian student. A Board member suggested that many Indian students were dropping out of the public schools because of the harsh reaction by non-Indians as a result of the Judge Boldt Indian Fishing rights decision.

- Dr. Roy Stern, Director of Education in the Portland BIA Area Office accompanied the reviewer during the 2-day on-site visit.

- A "Red Ribbon Committee" of 12 individuals has been set up this school year by the Superintendent to give management input (aided by a management analyst) and includes two students.

- The parental release form used does not permit the students' unsupervised leave or staff accompanied leave from the school. However, both were reported to occur.

- The Occupational Health and Safety Administration (OSHA) visited the school, noted absences of some safety equipment guards on shop machinery used by students, and advised the Superintendent that the guards should be replaced. They have not.

- The school owns and does not rent its vehicles. When questioned about this practice, the response was offered that this allowed students to repair the vehicles as part of a training program.

WAHPETON INDIAN ELEMENTARY SCHOOL

Wahpeton Indian Elementary School, located in Wahpeton, North Dakota, was reviewed on-site October 3-4, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	400
1978-79 School Year - ADM	296
Current Enrollment	300
Authorized Enrollment	350
1979-80 Projected ADM	292

Cost Data

FY 1979	3100	$1,515,625
FY 1979	3500	483,472
FY 1979	Other (Title, IMPL, etc.)	140,850
FY 1979	Per ADM - 3100	5,120
FY 1979	Per ADM - 3500	1,633
FY 1979	Per ADM - Total Program	7,229
FY 1980	Projected - 3100 Per ADM	4,785

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (23)	1:13
Total Dormitory Staff	1:10
On duty - day	1:50
On duty - night	1:100+
Counseling	1:100*
Social Services	none
Recreation Staff on Duty	1:45
Total Staff (86)	1:3.5

Additional Staffing Information

Psychological and medical services are provided through IHS.

*Counselors at Wahpeton also serve as dormitory supervisors.

WAHPETON INDIAN ELEMENTARY SCHOOL (Continued)

Academic Program

Wahpeton is not accredited by State or regional agencies. Wahpeton, however, does follow the basic State approved course of instruction.

A student needs assessment was conducted last year. Persons involved in assessment activities included the Principal, teacher supervisors, teachers, teacher-aides, and students.

Assessment data are being used in curriculum planning and student placement activities.

The curriculum at Wahpeton includes:

- Basic State approved course of study
- Vocational Crafts
- Indian Psychology Course
- Special Education for the Handicapped
    - Learning Disabilities
    - Deaf and Hard of Hearing
    - Speech Impaired
    - Home Economics
- Special emphasis on Indian Heritage in all activities

Home Living Program

The home living program incorporates behavior modification with primary emphasis given to positive reinforcement. Students are housed in three dormitories. Younger students are housed in a co-educational dorm. Older students reside in segregated dorms.

Food Services

The Food Services staff consists of a cook foreman, three cooks, and four food service workers. Approximately one-third of the student body are given kitchen details during the school year (such details are limited to older students).

The food was attractively displayed. No student complaints regarding the food service program were received.

Other Relevant Information

Special education services are provided through a contract from P.L. 94-142 funds.

Impressions

Staff members and students were supportive of Wahpeton. When asked to rate the school on a scale of 1 to 10, staff members rated Wahpeton 7.5 as a place for students and an 8.0 as a place for staff to work. Students, on an average, rated Wahpeton 8.0 as a place to live and get an education.

The day-to-day care of the facility evidenced pride as students and staff kept the grounds free from trash and litter. The buildings were also clean and gave the appearance of being well maintained.

The major student use buildings at Wahpeton are in good to excellent condition. The program per ADM costs are average or below that for the ORBS in general.

CONCHO INDIAN ELEMENTARY SCHOOL

Concho Indian Elementary School, located 4 miles north of El Reno, Oklahoma, was reviewed on-site September 20-21, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	279
1978-79 School Year - ADM	206
Current Enrollment	187
Authorized Enrollment	256
1979-80 Projected ADM	182

Cost Data

FY 1979	3100	$1,358,787
FY 1979	3500	422,169
FY 1979	Other (Title, IMPL, etc.)	102,486
FY 1979	Per ADM - 3100	6,595
FY 1979	Per ADM - 3500	2,049
FY 1979	Per ADM - Total Program	9,192
FY 1980	Projected - 3100 Per ADM	7,125

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (19)	1:9.8
Total Dormitory Staff	1:11
On duty - day	1:31
On duty - night	1:94
Counseling	1:187
Social Services	none
Recreation Staff on Duty	1:93
Total Staff (79)	1:2.3

Additional Staffing Information

No resident doctor or nurse; medical and psychological services are available through IHS.

Dormitory personnel assist in recreation.

CONCHO INDIAN ELEMENTARY SCHOOL (continued)

Academic Program

An increase in the numbers of first and lower graded students is occurring at Concho. Of its 187 students only 12 are out-of-State. The school has a 30 percent turnover rate.

The school program has consolidated classrooms of grades 1-3 and grades 4-6. Though all students are being screened, a total of 17 students are enrolled in the following special education classes: learning disabilities, language, emotionally mentally handicapped, and counselling.

Co-educational gym classes exist. However, of the sport budget, less than 10 percent is expended on girls sports activities. The lack of emphasis on training was apparent in one gym class where basketball was being played. The girls sat on the side lines, while the boys played. Sideline sitting did not seem enforced but participation by girls on an equal time basis did not seem required.

Sixty students graduated from Concho last year.

Home Living

The home living on-duty staff ratio during the evening is low (1:22) for the age of children involved. Children, aged 6-10 have only one person per wing to be a parent surrogate. For early morning dressing, two people assist.

Clothing is centralized for cleaning and distribution. Some students complained that other children were given their clothing to wear.

Allegations concerning corporal punishment made to the reviewer by some boys concerning some dormitory staff personnel were reported to the Acting Superintendent of Concho and to Dr. Earl Barlow, Director, Office of Indian Education Programs.

Some male students were assigned to rooms alone. When asked why, no explanation was provided by staff.

Rooms have four beds. No pictures were allowed on the dormitory walls. All were neat but austere.

Recreation

Even though the following list of activities exists for the students, it appears that teacher-sponsored clubs account for most of the daily programs:

> swimming, skating, assembly, movies, scouts, art, ceramics, disco, dorm council, student council, intramurals (some). Occasional activities include the sports - football, basketball, baseball and track.

A golf course exists as well as a field house for recreation.

Facilities

The facility is new, attractive and spacious. Twelve permanent and temporary staff care for it.

Six to nine student details are utilized in the dormitory and dining room.

Safety

Not every door had panic hardware, though 95 percent did. The fire truck, which is on campus, does not have a pump which operated as of the day of the on-site visit. The Acting Superintendent, upon being notified, told the maintenance staff to report to him on its condition.

A TV was in operation in the shop room where dangerous equipment was in use. Its efficacy in that classroom at all is highly questionable.

Fire and tornado drills are held.

Health

Yearly health checkups are not given to all students even though sight deficiencies and eye infections are frequent.

Staff Comments

A staff member recommended that testing needs to occur earlier in the year to assure better placement of students.

Other staff members suggested that needs exist for:

(1) a better recreation program
(2) a drug program
(3) improved health care because it is such a great problem for the children who are at Concho.

Impressions

Students' personal belongings, including clothing, should be kept for their personal use only.

In the case of any violation of the rule against corporal punishment, staff members should be subject to a stringent personnel action.

The numbers of dormitory staff should be increased.

Organized and supervised recreation activities should be increased. Expenditures and staff for girls' sports should be increased to a comparable level for boys.

The library should be open in the evening; and students should be allowed to have books in the dorms for a study hour.

SENECA INDIAN ELEMENTARY SCHOOL

Seneca Indian Elementary School, located in Wyandotte, Oklahoma, was reviewed on-site October 1-2, 1979.

Enrollment Data

1978-79 School Year - Total Enrollment	102
1978-79 School Year - ADM	82
Current Enrollment	58
Authorized Enrollment	120
1979-80 Projected ADM	53

Cost Data

FY 1979	3100	$759,231
FY 1979	3500	301,379
FY 1979	Other (Title, IMPL, etc.)	135,420
FY 1979	Per ADM - 3100	9,259
FY 1979	Per ADM - 3500	3,675
FY 1979	Per ADM - Total Program	14,585
FY 1980	Projected - 3100 Per ADM	13,850

Staff to Student Ratios (1979-80 Current Enrollment)

Teachers (10)	1:5.8
Total Dormitory Staff	1:3
On duty - day	1:3
On duty - night	1:19 Girls 1:39 Boys
Counseling	1:58
Social Services	1:58
Recreation Staff on Duty	1:58
Total Staff (54)	1:1.1

Additional Staffing Information

Psychological services available through area health organization.

No resident doctor or nurse; medical services are available either through private physicans in Miami, OK, 15 miles away or through IHS in Claremont, OK, 55 miles away.

SENECA INDIAN ELEMENTARY SCHOOL (Continued)

Academic Program

Though the projected ADM for this school year is 120, the current Seneca enrollment of 58 is far lower.

All children are from Oklahoma except for five from Florida and one from Wisconsin.

Seneca, like the other two elementary ORBS, is not certified by the State in which it is located. Grades 1-4 have one teacher for 13 children. Seneca has departmentalized classes for grades 5-8: science, typing, math, language, and art. The heavier distribution of students in the upper grades is evidenced by the current enrollment with 17 students in the 7th grade and 20 in the 8th grade.

However, classroom attendance figures presented to the reviewer indicated that 37 students were present in the first through fourth hours, while 46 were present in the 5th and 6th hours. Even assuming an average absentee rate, the student attendance figures make impossible an ADM count equal to the 58 current enrollment since this was one of the count weeks for purposes of determining average daily membership.

One learning disabilities teacher and one Title IV handicapped teacher are on staff. Six educational aides assist the teachers. Therefore, 16 individuals are available to assist the 58 students. The library appears adequate but no librarian exists.

Currently the Superintendent is also in an acting capacity as principal, teacher supervisor, and title coordinator.

Home Living

Even though 19 individuals are assigned to work in the dorm, staffing patterns are such that the little girls wing is in a separated, locked, first floor area without an adult present to supervise. The night attendant has to either go up a floor or outside to enter.

The girls dorm staff handbook, however, does have objectives and goals which are positive.

Pupil Services

Most students are admitted under a social criteria.

A social worker exists and a social work assistant. However, the social worker is prohibited from dealing directly with dorm staff and must go through the Superintendent.

Additionally, it was suggested by some staff that the school counselor does not spend much time directly counselling with students.

Parental authorizations give the right to students to leave the premises only for weekends, medical, and dental reasons. Transportation for students by church groups occurs; and students are neither accompained by school staff nor parentally authorized.

Other

- The reviewer met with the Seneca School Board. Those members present were:

Jesse McKibben, Chairman
Gloria Durbin (for Phillip Peacock)
Lowan Line (for James Allen)
Lollie Thomas
Geneva Horsechief

The Board felt that the school serves special needs for the Indian children and should continue to do so.

- An obvious strength of the program came from non-paid staff - the Foster Grandparents program from the area. These senior citizens were involved on a one-to-one basis, giving individual attention to the children.

It also appears that religious organizations in the surrounding communities were responsible for the most organized student activities after school hours. A recreation hall was open however.

- According to the Superintendent, he has reported to both the BIA Area Office and the Federal Bureau of Investigation (FBI), the loss of 400 items from the physical property inventory. Bicyles, televisions, and small electronic equipment figures amid the more numerous single items.

Facilities

Academic buildings are new, well maintained, and attractive. The other buildings are quite old and in poor condition though they were kept clean.

Lead paint is still being used. The maintenance mechanic foreman had just purchased new paint with lead in it.

Areas of peeling paint are apparent throughout the dorms.

A calf barn, used in the past for agricultural training, is unused and is recommended to be sold by the DOI facilities study.

A new, second, sewage pond has just been built.

It is conceivable that the town of Wyandotte, which rents a kindergarten building on the grounds, might be interested in renting the academic facilities since its own are comparatively older.

United States Department of the Interior

OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20240

Memorandum

MAY 12 1980

To: Commissioner of Indian Affairs
Director, Office of Indian Education

From: Deputy Assistant Secretary - Indian Affairs

Subject: Closure of Fort Sill and Stewart Boarding Schools

In accordance with the Departmental decision to propose the closure of Fort Sill and Stewart Off-Reservation Boarding Schools, you are directed to close the two schools by September 30, 1980 and to take the following other actions:

I. Concerning the student enrollment:

1. Students at Fort Sill shall be given priority placements at Riverside Indian School, Sequoyah Indian School, and other Bureau schools with the expressed preferences of parents and guardians.

2. Students at Stewart shall be given priority placement at Phoenix, Sherman and Intermountain Schools in accordance with the expressed preferences of parents and guardians.

II. Concerning personnel:

1. Teletype authorization for the Muskogee and Phoenix Area Personnel Offices to conduct a reduction in force at Fort Sill and Stewart Schools should be prepared and issued. The Area Personnel Officers and staff should conduct employee meetings at both schools. The Union Officials are to be invited to all meetings.

2. The Area Education and Personnel staffs should prepare timetables and action plans which provided for the maximum time for notice of RIF, counseling of employees concerning RIF procedures, possible job openings within the two affected areas and in other locations of interest to employees, retirement, severance pay, etc. The plan should call for the placement or separation of all employees by established dates.

3. The Area Personnel Officers may explore with management officials a possible request for expansion of the competitive area for the RIF.

   A decision will need to be made as to whether expansion of the competitive area will enhance the opportunities for the affected employees, or will it cause undue interruption to other schools without producing a noticeable benefit. A decision to expand the competitive area would need the approval of the Department's Director of Personnel.

4. As indicated above, the Union is to be kept informed. As soon as the authority for the RIF is received, the Union is to be notified and given time for comment.

III. Concerning academic, recreation, dormitory, kitchen, farm, and maintenance property, equipment and supplies:

1. At Fort Sill, first priority should be given to equitable distribution on a need basis to Concho, and Riverside Schools. Second priority should be given to distribution to the Muskogee Area schools and dormitories. Third priority should be given to Bureau schools in other areas. All remaining property, equipment and supplies determined excess or surplus should be disposed of through established procedures to other Federal agencies, or the general public per 41 CFR Chapter 101, Subchapter H, and implementing Departmental and Bureau directives.

2. At Stewart, first priority should be given to equitable distribution on a need basis to Sherman School, Phoenix School, and Intermountain School. Second priority should be given to Bureau schools in other areas. Per 41 CFR Chapter 101, Subchapter H, and implementing Departmental and Bureau directives, all excess and surplus property, equipment, and supplies should be disposed of through established procedures to other Federal agencies, or the general public.

3. Property, equipment and supplies needed to maintain Fort Sill and Stewart facilities until final disposition of the real property should be retained and final disposition be per proposals 1 and 2 above.

IV. Concerning remaining student activity funds, these should be distributed proportionally in the Anadarko and Phoenix Areas using the student counts for the spring of 1980. Fort Sill student activity funds should be distributed to Riverside and Concho Schools. Stewart funds should be distributed to Phoenix, Sherman, and Intermountain Schools.

V. Concerning student records and transcripts, the respective Area Education Program Administrators are responsible for the appropriate safeguarding and storage within established guidelines.

VI. Concerning IMPL funds at the schools the funds may be used for maintenance and security until final distribution is made of real property and facilities.

VII. Concerning any existing livestock and crops, these should be disposed of according to applicable procedures for public sale and the proceeds, if any, deposited into accounts from which originally acquired or into the U.S. Treasury's miscellaneous account, if originally acquired with appropriated funds. The Anadarko and Phoenix Area Directors will ensure that adequate and timely notice of public sales are provided to appropriate officials of the various tribes.

VIII. Concerning real property:

1. Fort Sill: The Anadarko Area Director will submit by June 1, 1980 a plan to the Commissioner for disposal of the real property.

   Until final disposition, the Anadarko Area Office should administer any permits, leasing, and/or surface management of the lands.

2. Stewart: The Phoenix Area Director will submit by June 1, 1980 a plan for the approval of the Commissioner for disposal of the real property. Until final disposition, the Phoenix Area Office should administer permits, leasing and surface management of the lands.

IX. Concerning implementing closure actions:

1. The Director of Indian Education Programs and his line officials are responsible for the programmatic aspects of closure including the transfer of students, the equitable distribution of student activity funds, and the safeguarding of student records.

2. The Commissioner of Indian Affairs and the respective Anadarko and Phoenix Area Directors are responsible for the administrative aspects of closure including personnel; property, equipment, and supplies, administration of IMPL funds; livestock and crops; and real property.

3. The respective Area Directors and the Director of Indian Education will each designate one official for each school to coordinate all activities associated with the school closings and related property and other resource dispositions. One official at the Washington Office location of the Office of Indian Education and one from the Bureau of Indian Affairs will also be designated to provide Central Office coordination. A listing of the designees will be provided to my office and all interested Indian tribes.

Mr. **Barlow**. The background of the decision to close these two boarding school facilities is concerned with the review of the Bureau of Indian Affairs' off-reservation boarding schools. This study was completed and released on May 6, 1980.

As a result of that study, a decision had been made within the Department to close the two schools in an effort to bring about some economic savings and to balance the fiscal year 1981 budget.

A directive was issued by the Assistant Secretary for Indian Affairs to me and to the Commissioner to prepare a plan for the closure of the two schools. On May 12, I, working in cooperation with the Commissioner of Indian Affairs, presented such a plan.

In the plan we outlined the issues which had to be resolved and identified which agency and department would be responsible for resolving those particular issues.

At the present time, I have received from the Anadarko area office their report on the issues and recommendations for the closing of Fort Sill Indian School. The effective date of the closure is September 30. I have not received one from the Phoenix area office.

Senator **Hatfield**. We would be happy to receive the studies that you have.

Mr. **Barlow**. We can submit them for the record.

[The following material was subsequently received for the record. Testimony resumes on p. 328.]

THE ANADARKO AREA OFFICE REPORT OF ISSUES AND RECOMMENDATIONS FOR THE CLOSING OF FORT SILL INDIAN SCHOOL

SUBMITTED BY THE
BUREAU OF INDIAN AFFAIRS
ANADARKO AREA OFFICE
DIVISION OF INDIAN EDUCATION PROGRAMS
ANADARKO, OKLAHOMA

EFFECTIVE DATE: SEPTEMBER 30, 1980

DANIEL E. SAHMAUNT
AREA EDUCATION PROGRAMS ADMINISTRATOR

JOHN L. EDWARDS
CHAIRMAN, FORT SILL TASK FORCE

DATE SUBMITTED: JUNE 19, 1980

APPENDIX

I. INTRODUCTION

II. ANADARKO AREA TASK FORCE MEMBERS

ISSUES AND RECOMMENDATIONS FOR THE CLOSING OF FORT SILL INDIAN SCHOOL, LAWTON, OKLAHOMA

III. EQUIPMENT, MATERIALS AND SUPPLIES

IV. STUDENTS - Student Enrollment
Student Activity Funds
Student Records

V. PERSONNEL

VI. REAL PROPERTY

VII. FACILITIES MANAGEMENT

VIII. GOVERNMENT QUARTERS

IX. HISTORICAL SITE - Current and Future Status of Historical Site at Fort Sill Indian School

I

INTRODUCTION

The purpose of this document is to accomplish the task of identifying issues at Fort Sill Indian School, Lawton, Oklahoma, and establish a procedure for the orderly closing of the school. The task of closing Fort Sill is the result of a directive issued by Mr. Sidney Mills, Deputy Assistant Secretary - Indian Affairs, Washington, D.C., which directed the tasks that need to be performed. The specific tasks were to (a) identify issues which need to be resolved; (b) prepare student transfer plan and student records related to the closure of Fort Sill; and (c) prepare other closure plans as needed.

The Anadarko Area Office of Indian Education Programs is responsible for providing the leadership role in completing this assignment for the Fort Sill Indian School. The responsibility of the selection of the Task Force group which involved personnel from Social Services, Personnel, P.L. 93-638, Facilities Management, Realty, Property and Supply, Fort Sill Indian School and Education. Special thank you to Catherine Lamar, Social Services; Pat Carlton, Personnel; Leo Tsoodle, P.L. 93-638; Tom Hogland, Facilities Management; Clifford Birdshead, Realty; Vernon Tsoodle, Property and Supply; Edward Green, Muskogee Area Property and Supply; Jack Williams, Fort Sill Indian School; Judy Connywerdy, Education; Doris Bish, Education; and John Edwards, Chairperson, Education.

This document is submitted in an effort to clarify the points of (a) How will the student enrollment and records be handled? (b) How will the school personnel be handled related to the closure timetable? (c) How will the property be disposed of?

II

ANADARKO AREA

TASK FORCE MEMBERS

FOR THE CLOSING OF

FORT SILL INDIAN SCHOOL

III

EQUIPMENT, MATERIALS AND SUPPLIES

ISSUE:

Distribution and/or disposition of equipment, materials and supplies at Fort Sill Indian School.

TASK FORCE RECOMMENDATION:

All materials and supplies, excluding perishables, be kept intact until September 30, 1980.

All equipment be kept intact and transferred with land and facilities to the Kiowa, Comanche and Apache Tribes of Oklahoma.

IV

STUDENTS

ISSUE:

Student Enrollment: Procedures for assisting students to enroll in other and/or B.I.A. boarding schools.

TASK FORCE RECOMMENDATION:

That the Agencies Branch of Social Services in the Anadarko Area be involved in working with each of the students and his/her parents in developing plans for the transfer to other schools.

Fort Sill Indian School will compile a listing of students by name, tribe and agency, which would be submitted to each home Agency with a copy to Area Social Services. The Area Office would then followup with the agencies to ensure that each student from Fort Sill Indian School is visited.

ISSUE:

Student Activity Funds: Procedure for the distribution and/or the disposition of Student Activity Funds.

TASK FORCE RECOMMENDATION:

Fort Sill Indian School staff is now making contact with students regarding personal accounts and other student activity funds. All individual monies will be forwarded to students. Leave balance of student activity funds intact until September 30, 1980, and at that time divide and distribute to the Riverside and Concho Indian Schools.

ISSUE:

Student Records: Procedure for handling student records.

TASK FORCE RECOMMENDATION:

Student records for the past five (5) years will be kept on active file and transferred to the Anadarko Area Education Office by the 30th of July 1980.

Records older than five years will be classified according to the Bureau of Indian Affairs Records Manual and transmitted to the Federal Records Center, Fort Worth, Texas, before September 30, 1980.

It is recommended that official notification by letter to parents and students, 18 years or older, be made by the school and administration to provide information regarding the transfer of student records, new location of student records, procedure for requesting information from records and policies and procedures regarding confidentiality of personally identifiable information.

Adaptation of the attached forms is recommended to provide parental notification.

It is, also, recommended that notification be made to the general public and Indian community of procedure for requesting Fort Sill and Chilocco student records and transcripts. Public news media, tribal newspapers or other publication could be utilized as a means of notification.

BUREAU OF INDIAN AFFAIRS — Special Education

TRANSFER OF RECORD(S) FORM

REQUESTOR: Name: ____________________

Address: ____________________

REQUESTED FROM: Name: ____________________

Address: ____________________

Student: Name: ____________________ S.E.S. No.: __________

Parent/Guardian: ____________________

Purpose: ____ Routine Transfer

____ Evaluation

____ Due Process

____ Other (Specify) ____________________

This is to certify that I do hereby agree to the release of educational records (defined as any information used to make a decision regarding special education fo my child) with the understanding that they will be released only for the purpose stated above and only to the person/institution stated above.

Date ____________________ Parent, Guardian or Eligible Student ____________________

The undersigned releases these records with the understanding that they are being released only for the purpose stated above and only to the person/institution stated above.

Date ____________________ Authorized School Official ____________________

BEST COPY AVAILABLE

~~APPENDIX [illegible]~~

SAMPLE FORM

Notification to Parent of Record Transfer ~~Completed~~

Dear Parent:

This is to notify you that ~~the following information from~~ your son's/daughter's, ______________ ______________,
(Name)

school record was transferred to Anadarko Area Division of Indian Educ. Prog. (Person or Agency) at Box 368 Anadarko Oklahoma (Address)

on ______________________. (Date)

Records	**Reason for Transfer**
(Regular School Records)	closure of Ft Sill School
Special Education Records	" " " " "
Intensive Residential Guidance	" " " " "

The education office will have ~~school district has~~ on file an assurance agreement from the requestor that the information recived will only be used by the person or agency named above and only for the reasons stated.

According to the "Family Educational Rights and Privacy Act" of 1974, this information may be transferred for the purpose so stated above without parental consent, but you have the right to be notified of that transfer, to review the records transferred, to receive a copy on request at your own expense and to request a hearing to challenge any of the content, if you so wish.

If you wish further information, please contact:

______________________ (Principal)

______________________ (Address)

______________________ (Local Education Agency)

Sincerely,

COPY AVAILABLE

V

PERSONNEL

ISSUE:

Reduction in Force at Fort Sill Indian School.

TASK FORCE RECOMMENDATION:

- Priority consideration for hiring be extended to include the Muskogee Area and Haskell Indian Junior College, Lawrence, Kansas.

STATUS REPORT:

The following is an outline of our Personnel Plan of Action for closing Fort Sill Indian School.

1. May 16, 1980 - Study decision memorandum to Commissioner of Indian Affairs and Director, Office of Indian Education from Deputy Assistant Secretary-Indian Affairs dated May 12, 1980, regarding Closure of Fort Sill Indian School.

2. May 23, 1980 - Received reduction-in-force authority from Acting Deputy Commissioner of Indian Affairs.

3. May 27, 1980 - Area Director, Anadarko agreed to provide priority consideration for Fort Sill Indian School employees for all locations under his jurisdiction.

4. May 27 and 28, 1980 - Mr. Dan Sahmaunt, Anadarko Education Program Administrator; Eddie Fisher, Area Personnel Officer; Evaline Gomez, Area Placement Officer; Ramona Bedford, Staffing Specialist; Patricia Carlton, Personnel Management Specialist, traveled to Fort Sill Indian School and meet with management, Union officials, and employees regarding the scheduled reduction-in-force. A collective meeting was held with all employees plus individual counseling session. Employment figures are 58 permanent, 19 furlough and 12 others for a grand total of 89.

5. May 28, 1980 - General reduction-in-force letter given to all employees.

BEST COPY AVAILABLE

The Personnel Office plans to have two personnelists return to Fort Sill Indian School for two days each month until the school is closed to be personally available for counseling and outplacement assistance. The Personnel Office requested authority to reassign non-Indians from the Commissioner of Indian Affairs through the Washington Personnel Office.

The Personnel Office will work with all staff members in an effort to find other employment. Some of the resources that will be utilized are shown below:

1. Placement in agencies and schools in the Anadarko Area.
2. Placement in agencies and schools in the Muskogee Area.
3. Placement in positions located in other Area Offices of the Bureau of Indian Affairs.
4. Placement with other Bureaus within the Department of the Interior.
5. Placement in other Federal agencies.
6. Placement in Tribal programs.
7. Placement with private industry.
8. Optional Retirement.
9. Retirement - Early-out for non-Indians in reduction-in-force.

Management resources which will be made available to assist with placement efforts are as follows:

1. Typists to assist with preparation of SF-171's for other employment.
2. Reproduction equipment to make copies of applications for employees.
3. Access to telephones to call personnel staff in the Area Office relative to personnel matters.
4. If administratively feasible, to permit personal visits to the Muskogee Area Office relative to personnel matters when a personal visit is considered essential.

Employees will be counseled on subject areas as follows:

1. Reduction-in-force Procedures
2. Displaced Employee Program - OPM, Departmental and BIA
3. Health Insurance
4. Life Insurance
5. Injury Compensation
6. Leave

BEST COPY AVAILABLE

7. Pay - Compensatory, Annual Leave, Lump Sum, etc.
8. Reinstatement in the Federal Service
9. Retirement - Optional, Disability, Early-Out, etc.
10. Severance Pay
11. Unemployment Compensation
12. Sick Leave Regulations

The above is a representative of subjects, and is not intended to be an all-inclusive list.

TASK FORCE RECOMMENDATION:

> The competitive area of consideration be expanded to include all of the Anadarko Area, Muskogee Area and Haskell Indian Junior College.

VI

REAL PROPERTY

ISSUE:

Disposition of real property.

The Kiowa, Comanche and Apache Tribes of Oklahoma jointly own the surrounding land to the Fort Sill Indian School. The school property and land occupied by the Indian Health Hospital represent the only remaining property owned by the United States.

TASK FORCE RECOMMENDATION:

That the land Fort Sill Indian School campus occupies be transferred to the Kiowa, Comanche and Apache Tribes of Oklahoma and that all buildings and furnishings be kept intact as is and transferred with the land.

Lands presently occupied by the school are more particularly described as:

Beginning at the South Quarter corner of Section 20 (or the North Quarter of said Sec. 29); Township 2 North, Range 11 West, I.M.,
thence N. 00°00'49" E. a distance of 1,371.87 feet;
thence N. 88°33'09" W. a distance of 1,288.07 feet;
thence S. 00°53'28" E. a distance of 394.05 feet;
thence N. 88°31'10" W. a distance of 790.04 feet;
thence S. 05°25'58" W. a distance of 122.16 feet;
thence S. 31°42'19" W. a distance of 24.02 feet;
thence S. 22°58'47" W. a distance of 72.41 feet;
thence S. 01°12'25" W. a distance of 719.89 feet;
thence S. 09°32'45" E. a distance of 108.64 feet;
thence S. 01°27'40" E. a distance of 331.60 feet;
thence S. 08°47'14" E. a distance of 36.94 feet;
thence S. 06°47'14" E. a distance of 193.83 feet;
thence S. 12°39'53" E. a distance of 325.16 feet;
thence S. 14°03'46" E. a distance of 328.25 feet;
thence S. 05°47'48" E. a distance of 142.10 feet;
thence S. 13°20'36" E. a distance of 100.56 feet;
thence N. 64°27'13" E. a distance of 1,104.64 feet;
thence S. [illegible]°00'16" E. a distance of 841.68 feet;
thence N. [illegible]°20'40" E. a distance of [illegible] feet;
thence N. [illegible]°25'12" E. a distance of [illegible].22 feet;
to the point of beginning, containing 115.41 acres, more or less.

BEST COPY AVAILABLE

The acreage described above is a portion of that land set aside for school, agency, cemetery and administrative purposes as shown on the schedule of allotments approved by the Secretary of the Interior on June 20, 1901. It had been included in a conveyance to the United States by the tribes in accordance with the agreement of October 6, 1892, ratified by the Act of June 6, 1900 (31 Stat. 672, 676). Under this agreement, the tribes ceded certain lands to the United States and in return received allotments and other considerations.

Thereafter, by Section 17 of the Act of June 30, 1913 (38 Stat. 77, 92), provision was made for the sale of surplus school and agency lands with part of the proceeds of such sale to be disposited in the Treasury to the credit of the Indians.

The history regarding these reserves is set out in detail in the enclosed copy of the Deputy Solicitor's Opinion, M-36510, dated January 15, 1960. As you will note, the Deputy Solicitor conclued that lands set aside for school, school-farm, cemetery, agency and other similar uses, which are found to be surplus to the needs for which they were reserved, may be restored to tribal ownership in accordance with the provisions of Section 3 of the Act of June 18, 1934.

We would therefore recommend that upon closing of the school the land be declared surplus to the needs for which they were reserved and be restored to tribal ownership for the use and benefit of the Kiowa, Comanche and Apache Tribes of Indians of Oklahoma, and that technical assistance be provided to the Kiowa, Comanche and Apache Tribes of Oklahoma in developing alternative programs for the use of facilities and real property of Fort Sill Indian School prior to bureau retrocession to these tribes..

VII

FACILITIES MANAGEMENT

ISSUE:

Maintenace and Security: Plan for maintenance and security of Fort Sill Indian School.

TASK FORCE RECOMMENDATION:

Present maintenance and security be functional until September 30, 1980.

To consider contracting the maintenance and security force necessary after September 30, 1980. Consideration should be given to local Indian contractors for these services and/or that the following personnel be retained for maintenance and security purposes:

A. One Supervisor-Handyman
B. One Carpenter
C. One Electrician
D. One Clerk-Typist
E. Two Guards

Employees kept on can be hired with dual functions in their position descriptions.

Recommend that an effort be made to obtain funding out of activity 3500 monies for the maintenance and security force for Fiscal Year 1981.

Recommend that all telephone service be disconnected on July 15, 1980, with the exception of one FTS line and two direct business lines.

Recommend that one direct line and one FTS line be connected to Building No. 328.

Recommend that one line be connected to Building No. 324.

Recommend that all buildings be closed and winterized except Buildings 324 and 328.

Recommend that Quarters No. 331 remain open.

BEST COPY AVAILABLE

VIII

GOVERNMENT QUARTERS

ISSUE: Vacating of Government Quarters.

TASK FORCE RECOMMENDATION:

Employees who now occupy government quarters be allowed to stay until they are reassigned, etc., or until September 30, 1980. When these quarters are vacated they can not be reoccupied.

IX

HISTORICAL SITE

Excerpts from Environmental Evaluation, Department of the Interior, Bureau of Indian Affairs, Anadarko Area, Fort Sill Indian School, Lawton, Oklahoma, dated July 23, 1976.

On the 115.41 acres to be retained for school use, there is one building (#309) that is listed on the National Register of Historic Places. This building is constructed of native stone and is the last remaining of the original buildings at Fort Sill Indian School. As far back as 1964, attempts have been made to refurbish and develop this building as KCA tribal offices and a museum.

Lack of funding has prevented any development. A woven wire fence has been constructed around the building to prevent vandalism and for preservation. The office of the Oklahoma State Historical Preservation Officer has been contacted, as well as the Chairman of the Tribal Business Committee, Mr. James Cox. An agreement between the Tribal Council, the State Historical Preservation Officer and the Bureau of Indian Affairs is being drafted. this agreement will renew efforts to seek possible funding sources and development of the building for tribal offices and a museum.

Senator HATFIELD. What efforts are currently under way to increase the travel ceiling so as to insure transportation of students back to boarding schools and the operation of buses to transport students to BIA-funded day schools?

Mr. BARLOW. Just this week I did receive from the Assistant Secretary for Indian Affairs notification that the travel ceiling would be remedied and that a sufficient ceiling would be made available to transport the students back to the off-reservation boarding schools and to provide transportation to the day schools.

At the present time I have not been officially notified of the amounts or when the formal announcement of the amounts will be made.

Senator HATFIELD. Mr. Barlow, what is being done to alleviate the problems previously private contract schools have had with operation and maintenance funding?

Mr. BARLOW. The situation has been resolved, insofar as the actual payment of the funds is concerned. Again, the rules and regulations stipulated that 3500 funds or facility maintenance funds would be available to meet these costs at the level reported for fiscal year 1979 expenditures.

Where the problem arose was in whether or not we could use 3500 funds in facilities that were not federally owned or federally built. But about 2 weeks ago, the decision was made and I was directed to notify these schools that the funds would be forthcoming.

I believe we have notified all of the schools by telephone. The Bureau of Indian Affairs' Financial Management Office is in the process of preparing notices of allotments.

Senator HATFIELD. Are you saying that such funds are to be released? Do you have a date for such release of funds?

Mr. BARLOW. Yes. The advice of allotments are now being prepared in our Bureau Office of Financial Management. I do not know just how long that is going to take, whether it will be 10 days or 2 weeks.

Senator HATFIELD. Then, do I also understand that with the release of these funds you do not anticipate there will be any requirement to have to cut into programs in order to offset the loss of operation and maintenance funds? In other words, we are not going to have to sacrifice programs in order to maintain safety, cleanliness, and whatever other factors are involved in O. & M.

Mr. BARLOW. The operation and maintenance moneys, which amount to about $1.8 million for these schools, will come from 3100 funds. Those are school operation funds from the central office.

At this time, I do not anticipate that the schools in the Bureau system will have to cut back on any programs or in any way jeopardize the health or safety of the students.

Senator HATFIELD. You do not anticipate, then, a deduction from programs in order to meet operation and maintenance requirements. Is that correct?

Mr. BARLOW. That is correct.

Senator HATFIELD. That is in the current fiscal year. What about the coming fiscal year? What kinds of requests have you made budgetwise to meet such operation and maintenance requirements?

Mr. BARLOW. There were no formal requests for the necessary budgeting authority for fiscal year 1981 to take care of this obligation. We have included it in our fiscal year 1982 budget request, which is going through the departmental process.

We are in the process now of sitting down and on the basis of this year's experience attempting to determine just how we are going to meet this obligation for fiscal year 1981. At this time we do not have a formal solution.

Senator HATFIELD. Then you are releasing funds for the current fiscal year. You have not requested funds for fiscal year 1981, but you are in the process of preparing for fiscal year 1982 with funds and are working on a solution to the problem of fiscal year 1981 without funds. Is that the picture?

Mr. BARLOW. That is correct.

We did get the amounts from the fiscal year 1979 expenditures. We asked the schools to report what they actually expended in fiscal year 1979 for operation and maintenance. These are the figures that they reported. We verified them. This gave us our determination of how much they were entitled to.

Senator HATFIELD. When do you anticipate finding a solution to fiscal year 1981? Do you have a timeframe or a time goal?

Mr. BARLOW. The fiscal year starts in October 1980. I would certainly like to get the schools notified, because what happened this year was that they awaited the release of the 3500 funds and they were not forthcoming in a timely fashion.

I will assume that they had to use other types of funds to cover this and it put them in a very serious predicament, as you heard in the testimony.

I would like to get this resolved just as soon as possible. I have also been in communication with members of the House Appropriations Committee and let them know what the situation is. I just recently alerted them.

Senator HATFIELD. Mr. Barlow, I am going to press you a little bit further.

Mr. BARLOW. Sure.

Senator HATFIELD. I am on the Appropriations Committee. We have not yet commenced our markup of the Subcommittee on the Interior in which such funds would be presented. Assuming that we begin an appropriations markup on that subcommittee after the Democratic convention in August, when we return following the recess, do you think there is a possibility of having some solution or idea at that time ready for the Senate Appropriations Committee markup?

Mr. BARLOW. Mr. Chairman, I will make that my highest priority.

Senator HATFIELD. Would you do that?

Mr. BARLOW. I am relatively new to the Federal service. I am not quite certain how this system operates, but with the help of my colleagues here, we will certainly strive to provide that information.

Senator **Hatfield**. Now, let me be very frank with you too, since you are not perhaps schooled from the standpoint of longevity in Federal procedures. Do not get boxed in by the OMB. I can tell you of many examples of an agency making a request and it gets executed or knocked in the head in the OMB.

I want to take off my Indian Affairs Select Committee cap at this moment and put on my Appropriations Committee cap and say to you that I am making a formal request now to you to provide my Subcommittee on Appropriations with the information and data to consider what is required to meet the O. & M. program for fiscal year 1981.

You may not be able to present that to me officially because it may not be able to go through the channels and obstacle course that it has to run, but any request from a Member of Congress directed to you may be provided without it being an official request, if you follow what I mean.

I would like that information though, because we are always free to offer amendments at will. It is part of the legislative process, with or without the support of the agency.

I feel very strongly that when we are dealing with students, youngsters of all age groups, particularly younger students, that operation and maintenance is more than dusting the windowsills and sweeping the hallways down. O. & M. can involve safety factors and health factors, and I do not think that it is being economically prudent or wise to cut in these areas. It could impact upon the health and safety of students.

Mr. **Barlow**. Your observations and comments are very astute. O. & M. also includes the heating, the lighting, the real necessities.

Senator **Hatfield**. Of course, it does. Let us sort of understand that, from my point of view—and I think I can speak for my colleagues on that subcommittee, at least—that we would like that information. I do hope that it could come to us via the official routing with the blessing of the administration, but if it cannot come to us via that route, we can always ask for information directly from you in the consideration of our appropriations markup. I am making that request now.

Mr. **Barlow**. I understand. Thank you.

Senator **Hatfield**. Thank you very much.

[In response to the request of Senator Hatfield the following letter was received by the Senate Appropriations Committee.]

U.S. Department of the Interior,
Bureau of Indian Affairs,
Washington, D.C., August 1, 1980.

Hon. Robert C. Byrd,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, U.S. Senate, Washington, D.C.

Dear Senator Byrd: The following information is furnished per the directive of Senator Hatfield on July 24, 1980, at the Senate Select Committee on Indian Affairs Oversight Hearing:

CONTRACT SCHOOLS O. & M.—FISCAL YEAR 1981 TENTATIVE ALLOTMENTS AND FISCAL YEAR 1980 ALLOTMENTS

	Fiscal year 1980	Fiscal year 1981
Theodore Jamerson	124, 460	132, 118
St. Michael	136, 080	178, 688
St. Francis	200, 140	262, 806
Marty	230, 490	302, 659
Ojibway	124, 100	162, 957
Crow Creek	151, 830	199, 370
Institute of the Southern Plains	9, 450	12, 409
Two Eagle River	24, 460	32, 119
Labre	127, 420	167, 317
Wyoming Indian High School	102, 500	134, 594
St. Stephens	95, 470	125, 363
Bug-O-Nay-Ge-Ship	4, 350	5, 712
Nay-Ah-Shig	7, 070	9, 284
Lac Courtes Oreilles	100, 620	132, 125
Oneida	25, 000	32, 828
Hannahville	23, 600	30, 989
Duckwater	13, 590	17, 845
Blackwater Community	20, 410	26, 801
Shiprock Alternative	14, 820	19, 460
Little Singer	34, 560	45, 381
Black Mesa	17, 240	22, 664
Quileute	17, 243	22, 668
Paschal Sherman	102, 100	134, 968
Yakima	74, 140	97, 879
Puyallup	96, 310	126, 466
Nez Perce	13, 340	17, 517
Shoshone-Bannock (Fort Hall)	9, 807	12, 878
Coeur D'Alene	36, 850	48, 388
Miccosukee	33, 789	44, 369
Pyramid Lake		41, 358
Total	1, 872, 379	2, 500, 000

The above fiscal year 1981 figures represent projected O&M costs for Contract Schools determined by the percentage share which that school's fiscal year 1979 costs represent in the total fiscal year 1979 O&M cost for all such schools. The ceiling used is $2.5 million (minus $41,358 for Pyramid Lake because it is a new school) as prescribed in 31h.141.

In fiscal year 1980, O&M for Contract Schools was funded at the same level as in fiscal year 1979 due to budget limitations. The fiscal year 1980 O&M allotments do not cover Contract Schools total expenditures; the difference has to be made up from funds for other programs at each school. Additionally, due to the decision not to use funds from budget activity 3500, "General Management and Facilities Operations," funds for Contract Schools O&M have not been identified or requested for fiscal year 1981. However, funds have been identified and requested for fiscal year 1982.

Sincerely,

EARL J. BARLOW,
Director, Office of Indian Education Programs.

Mr. BARLOW. I would like to conclude with one other thing. I did hear some testimony on the closures of Fort Sill and Stewart. Again, I am a little concerned about the consultation process. I would like to work to improve it.

I do not think we really had a good line of communication and I realize that things had to move quickly, but I feel that perhaps I was a little remiss in my function in not seeing that this was carried out.

Senator HATFIELD. Mr. Barlow, that is a very excellent comment and I am sure that it is welcomed by all of those who are in a relationship to your agency, not only those here today but others as well.

I appreciate very much your willingness to make every effort to improve those lines of communication.

The hearing will be adjourned.

[Whereupon, at 3:06 p.m., the hearing was adjourned.]

CORRESPONDENCE AND ADDITIONAL MATERIAL RECEIVED SUBSEQUENT TO THE HEARING

FRIED, FRANK, HARRIS, SHRIVER & KAMPELMAN
SUITE 1000
600 NEW HAMPSHIRE AVENUE, N. W.
WASHINGTON, D. C. 20037
(202) 342-3500
CABLE "STERIC WASHINGTON"
TELEX 892406

[illegible]

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON

[illegible]

WRITER'S DIRECT NUMBER IS
342-3710
OUR REFERENCE

July 23, 1980

HAND DELIVER

Ms. JoJo Hunt
Senate Select Committee on
  Indian Affairs
Room 6313
D.S.O.B.
Washington, D. C.   20510

Dear Ms. Hunt:

Enclosed herewith, pursuant to our recent discussion, is one copy of a memorandum on the problems tribal contract schools are now experiencing with the Indian School Equalization Program. I have also enclosed a copy of a letter which we submitted on behalf of a number of our tribal clients who operate programs under Title I of the Elementary and Secondary Education Act to Secretary of the Interior Andrus which discusses the problems our clients are encountering with respect to travel restrictions.

Please include the memorandum and the letter as part of the hearing record. If you should have any questions, please do not hesitate to call.

Sincerely,

Robert J. Martin

Robert J. Martin

RJM/tl

Enc.

FRIED, FRANK, HARRIS, SHRIVER & KAMPELMAN
SUITE 1000
600 NEW HAMPSHIRE AVENUE, N. W.
WASHINGTON, D. C. 20037

(202) 342-3500
CABLE "STERIC WASHINGTON"
TELEX [illegible]

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON

WRITER'S DIRECT NUMBER IS
342-3710

July 22, 1980

MEMORANDUM No. 80-26

RE: Indian School Equalization Program

We have been notified that the Bureau of Indian Affairs has not completed the development of proposed revisions to the Indian School Equalization Formula regulations (25 C.F.R. §31h-14) which were to be completed by June 30, 1980. These are the regulations under which the amount of funding received by each BIA-operated or BIA contract school is determined.

It is our understanding that the earliest date on which the proposed changes could be made public is September 1, 1980 and that they may not be published until November 1, 1980. Thus, tribal organizations which contract the operation of BIA schools and local Indian school boards which have been given new budgeting responsibilities under Public Law 95-561 (see our Memorandum No. 79-23) will be commencing the school year without knowledge of the funding which will be available to them from the Bureau or even of the principles under which funds appropriated by the Congress for F.Y. 1981 will be divided among BIA schools.

Indian tribes with children in Bureau schools may wish to express to the Assistant Secretary for Indian Affairs and to their Congressional delegation their concern at the Bureau's delay in establishing the principles under which BIA school budgets for the 1980-1981 school year will be determined.

FRIED, FRANK, HARRIS, SHRIVER & KAMPELMAN
SUITE 1000
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, D.C. 20037
[illegible]
CABLE "STERIC WASHINGTON"
TELEX [illegible]

FRIED, FRANK, HARRIS,
SHRIVER & JACOBSON

WRITER'S DIRECT NUMBER IS
202-342-3589

OUR REFERENCE

July 21, 1980

The Hon. Cecil D. Andrus
Secretary of the Interior
U.S. Department of the Interior
Washington, D.C. 20242

Dear Secretary Andrus:

I am writing on behalf of a number of our clients who operate programs under Title I of the Elementary and Secondary Education Act, including the Cheyenne River Sioux Tribe, the Borrego Pass (Navajo) School Board, the Rock Point (Navajo) School Board and the Miccosukee Tribe of Indians of Florida. Our clients have recently been told by the Department of Education that a misinterpretation on the part of the Department of the Interior of Public Law 96-86 is jeopardizing the future of the Title I program administered by the Bureau of Indian Affairs in BIA-funded schools.

According to this information, the Department of the Interior, by virtue of its allocation of the travel restrictions imposed by P.L.96-86, has violated commitments made to the Department of Education in the Memorandum of Agreement under which the Bureau administers the program. In effect, this action by your Department has made it impossible for the Bureau to perform monitoring and other functions which it is obligated to perform under the Agreement. We understand from the Department of Education that the continued failure by the Bureau to comply with the terms of the Memorandum of Agreement jeopardizes the continued availability of this program for disadvantaged Indian students in BIA-funded schools.

As we are aware of your dedication to the improvement of Indian education, we cannot believe that this matter has been brought previously to your attention. On behalf of our clients, I request a conference with representatives of the Assistant Secretary for Indian Affairs and the Assistant Secretary for Policy, Budget and Administration, together with representatives of the Department of the Interior, in order to resolve this matter immediately to prevent a loss of educational benefits to disadvantaged Indian children. The Department of Education has assured me that it would be glad to attend such a meeting and has no objection to my presence for the purposes of representing our clients.

Please let me know as soon as possible when such a meeting will be scheduled.

Sincerely,

S. Bobo Dean

cc: Mr. Lewis McGuiness
The Hon. Sidney Mills
Mr. Buffalo Tiger
Mr. Bruce Hoffman
Ms. Mary Helen Creamer
Ms. Francine Garreau
Mr. Robert Hall
Mr. Earl Barlow
Michael P. Gross, Esq.
Ms. Susan Crystal
Mr. Peter Taylor
Mr. Byron Nielson
Mr. Alan Lovesee

DIBE YAZHI HABITIIN OLTA, INC.
BORREGO PASS SCHOOL
P.O. Drawer A
Crownpoint, New Mexico 87313
Phone 505-786-5237

REC'D AUG 4 1980

July 29, 1980

Honorable John Melcher
United States Senate
Select Committee on Indian Affairs
Washington, D. C. 20510

Dear Senator Melcher

Thank you for the opportunity to present testimony on Indian Education issues at the Select Committee hearing July 24. We appreciate being able to bring information to the Committee's attention from out in the field.

We presented three papers in written testimony, and wish to add the following footnote information to each, for the record.

1. To the paper entitled Indirect Cost Problems of Contract Schools and other PL 93-638 Contractors, we are submitting herewith a preliminary estimate of additional funds required in the FY 81 BIA budget to pay the lump sum indirect costs they have committed themselves to pay.

2. To the paper entitled Problems Contract Schools have been having with Facility Operation and Maintenance, we are submitting herewith the documentation referenced in the paper, but not attached due to oversight.

3. To the paper entitled Threatened Defunding of BIA Education Programs (etc.), we wish to add the footnote that we were informed at a conference the day after the hearing, with Mr. Sam Deloria (acting Deputy Assistant Secretary for Indian Affairs pending confirmation of Mr. Tom Fredricks as Assistant Secretary), that Department level review of the impact of travel ceiling on these programs is underway and a solution will be negotiated with the Dept. of Ed.

Our especial appreciation is due Senator Hatfield for his concerned response to the Previously Private O&M problem for FY 81, in the question period following Mr. Barlow's testimony. No one could ask for better support for Indian people and programs than was given.

Sincerely yours,

Mary Helen Creamer

Mary Helen Creamer, Acting Director
Association of Navajo Community Controlled School Boards

Coalition of Indian Controlled School Boards
511 16th Street • Denver, Colorado 80202 • (303) 573-5715

PRELIMINARY ESTIMATE OF ADDITIONAL FUNDS REQUIRED FOR BIA LUMP SUMS TO PAY CONTRACT SCHOOL INDIRECT COSTS IN FISCAL YEAR 1981

I. SCHOOLS THAT ALREADY HAVE NEGOTIATED RATES

SCHOOL	FY 80 FORMULA ALLOTMENT	TOTAL INDIRECT COSTS APPROVED	NON-BIA SHARE OF COSTS
Crow Creek	693,991	14,638	440
Little Wound	915,152	242,888	87,440
Loneman	685,058	89,495	21,469
St. Francis	1,041,960	253,743	38,061
Ojibway Indian School	338,996	78,341	21,152
Marty Indian School	827,054	180,779	24,156
Pierre Indian Learning Center	488,120	231,666	6,950
Red Scaffold	123,200	93,250	-0-
Black Mesa Community School	116,888	107,900	21,500
Borrego Pass School	322,924	283,979	108,232
Rock Point Community School	1,192,031	318,234	79,558
Rough Rock	1,680,058	689,243	232,983
Institute of Southern Plains	113,412	53,600	-0-
Wind River(Wyoming High)	463,100	98,188	20,619
St. Stevens	535,215	152,008	19,631
Ramah(Pine Hill)	2,275,910	1,066,223	319,876
TOTALS	12,012,649	3,859,135	996,147

OVERALL RATE COMPUTATION USING FORMULA ALLOTMENT AS A BASE

$$\begin{array}{r} .321 \\ 12{,}012{,}649\,\overline{)\,3{,}859{,}135} \end{array}$$

II SCHOOLS THAT HAVE ALREADY ESTABLISHED A LUMP SUM OVERHEAD CONTRACT

Alamo Navajo	539,141	336,000	-0-
Little Singer	76,246	86,325	-0-

III SCHOOLS THAT HAVE NO ADDITIONAL INDIRECT COST FUNDS

TOTAL, 34 SCHOOLS (see un-marked schools on attached list)	13,070,711	-0-	-0-

COMPUTATION OF ESTIMATED NEEDS USING OVERALL RATE FOR OTHER SCHOOLS

$$\begin{array}{lr} & 13{,}070{,}711 \\ & \underline{\times \quad .321} \\ & 4{,}195{,}698 \\ \text{PLUS NON-BIA SHARE (above)} & \underline{+\ 996{,}147} \\ \text{TOTAL NEW BIA OBLIGATION} & \$5{,}191{,}845 \end{array}$$

Excerpt from FY 80 Budget Justification - BIA
"Genesis of the problem"

The increase in the Navajo-Hopi subactivity results from consolidating all related programs, previously funded in other subactivities. Increases to the base are from the following programs, and will be offset in other decreases below:

Tribal Government Services	$ 47
Law Enforcement	300
Roads Maintenance	95
Forestry and Agriculture	1,168
Management and Administration	128
Total	1,738

Beginning in FY 1980, all funds requested to provide general management and administrative support services to Bureau mission programs will be requested as part of this appropriation under the subactivity Management and Administration. This change results in a base adjustment of $2,179 from the Construction account and $2,645 from the Road Construction account.

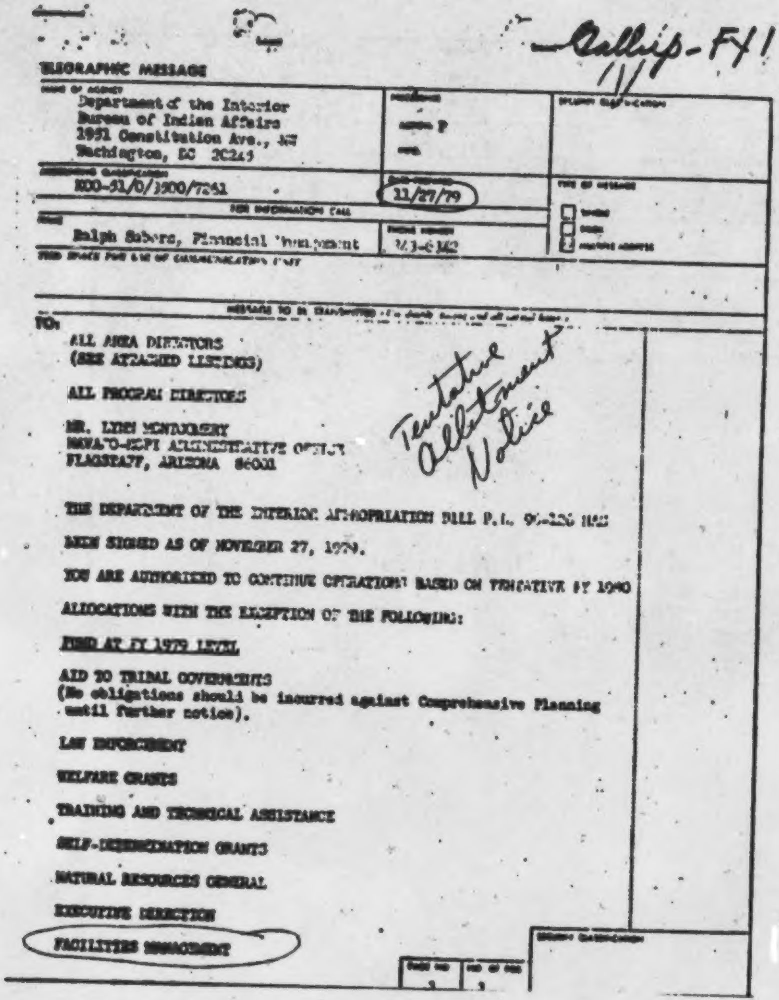
Other Decreases:

Note →

Navajo-Hopi Program Consolidation.................	--	-1,738
Consolidation of Major Repairs and Facilities Improvement....................................	--	-4,671

The decrease for Navajo-Hopi is an offsetting adjustment and is explained above under "Other Increases."

Funding for major repair of physical facilities has been transferred to the Construction account and consolidated with the Facility Improvement program. The consolidated program will provide for both major repair and improvement of facilities.



Gallup-FYI

TELEGRAPHIC MESSAGE

Department of the Interior
Bureau of Indian Affairs
1951 Constitution Ave., NW
Washington, DC 20245

BOO-51/0/3900/7251

11/27/79

Ralph Sobers, Financial Management

343-6342

TO:

ALL AREA DIRECTORS
(SEE ATTACHED LISTINGS)

ALL PROGRAM DIRECTORS

MR. LYNN MONTGOMERY
NAVAJO-HOPI ADMINISTRATIVE OFFICE
FLAGSTAFF, ARIZONA 86001

Tentative allotment Notice

THE DEPARTMENT OF THE INTERIOR APPROPRIATION BILL P.L. 96-126 HAS

BEEN SIGNED AS OF NOVEMBER 27, 1979.

YOU ARE AUTHORIZED TO CONTINUE OPERATIONS BASED ON TENTATIVE FY 1980

ALLOCATIONS WITH THE EXCEPTION OF THE FOLLOWING:

FUND AT FY 1979 LEVEL

AID TO TRIBAL GOVERNMENTS
(No obligations should be incurred against Comprehensive Planning until further notice).

LAW ENFORCEMENT

WELFARE GRANTS

TRAINING AND TECHNICAL ASSISTANCE

SELF-DETERMINATION GRANTS

NATURAL RESOURCES GENERAL

EXECUTIVE DIRECTION

FACILITIES MANAGEMENT

BEST COPY AVAILABLE

[illegible]GRAPHIC MESSAGE

NAME OF AGENCY Department of the Interior Bureau of Indian Affairs 1951 Constitution Ave., NW Washington, DC 20245	PRECEDENCE ACTION P INFO	SECURITY CLASSIFICATION
ACCOUNTING CLASSIFICATION K00-51/0/3500/7262	DATE PREPARED 11/27/79	TYPE OF MESSAGE ☐ SINGLE ☐ BOOK ☒ MULTIPLE ADDRESS
FOR INFORMATION CALL		
NAME Ralph Sabers, Financial Management	PHONE NUMBER 343-6342	

THIS SPACE FOR USE OF COMMUNICATION UNIT

MESSAGE TO BE TRANSMITTED (Use double spacing and all capital letters)

TO:

1% BELOW FY 1979 LEVEL

BUSINESS ENTERPRISE DEVELOPMENT.

ASSISTANT DIRECTOR,
FINANCIAL MANAGEMENT

71 985 535

SECURITY CLASSIFICATION	PAGE NO.	NO. OF PGS.

BEST COPY AVAILABLE

[illegible] Bureau of Indian Affairs

Date February 29, 19

Revision [redacted]

ADVICE OF ALLOTMENT

Copies:
Division of Budget
C.O. Controls

cc: T. Stangl
V. Gainor
E. Russell

To Area Director

Unit No. 14-20-300

Unit Name Navajo Area Office

Appropriation Symbol and Title 1402100 Operation of Indian Programs, Bureau of Indian Affair FY-1980

ACCOUNT NO.	DESCRIPTION AND TITLE	AMOUNT ALLOTTED	
		Increase	Decrease
3200	Indian Services	$29,308,785.00	
3400	Trust Responsibilities	1,655,500.00	
3500	General Management and Facilities Operation	$3,582,000.00 Area	
3700	Economic Development and Employment Programs	8,644,950.00	
3800	Natural Resources Development	8,141,800.00	
	Total....	$71,333,035.00	

Remarks: Funds made available by the Department of the Interior and Related Agencies Appropriation Act, 1980, P.L. 96-126, approved November 27, 1979.

"The amount provided herein for facilities operation and maintenance of Bureau-owned (both contract and Bureau-operated) school facilities is subject to a pro-rata withdrawal to provide funds for facility O & M previously private schools upon approval of a pending reprogramming request."

(SEE BACKUP SHEETS FOR DISTRIBUTION)

Apportionment by quarters (Fiscal Year 19 80):

	Previous	Present
	$	$
1st quarter		—
2nd quarter		44,094,401
3rd quarter		15,290,876
4th quarter		13,219,758
Total availability, including $ 1,272,000 reimbursements	$	$ 72,605,035

(58,000 - 3200)
(18,000 - 3400)
(985,000 - 3500)
(53,000 0 3700)
(158,000 - 3800)

RECEIVED
ADMINISTRATION
MAR 10 1980
NAVAJO
AREA OFFICE

Approved: (Date) February 29, 1980

Approved by: Theodore C. Krenzke
Acting Deputy Commissioner of Indian Affairs

344

ACTIVITY 8500
FY 1980 WORKSHEET

		TOTAL ALLOCATION	60	64	65	71	7461	7499	7471	78	
N00	1980 Allot	[illegible]		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		[illegible]
	Pay Cost	[illegible]					[illegible]	[illegible]			
	Oblig any status			[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		
	1979 Allot			[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		
	% Oblig status			[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]		
N02	1980 Allot	[illegible]		[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	Pay Cost	[illegible]						[illegible]			
	Oblig any status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	1979 Allot			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	% Oblig status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
N03	1980 Allot	[illegible]		[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	Pay Cost	[illegible]						[illegible]			
	Oblig any status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	1979 Allot			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	% Oblig status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
N04	1980 Allot	[illegible]		[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	
	Pay Cost	[illegible]						[illegible]			
	Oblig any status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	1979 Allot			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	
	% Oblig status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]	[illegible]	
[illegible]	1980 Allot	[illegible]		[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	Pay Cost	[illegible]						[illegible]			
	Oblig any status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	1979 Allot			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	% Oblig status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
N06	1980 Allot	[illegible]		[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	Pay Cost	[illegible]						[illegible]			
	Oblig any status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	1979 Allot			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
	% Oblig status			[illegible]	[illegible]	[illegible]		[illegible]	[illegible]		
N07	1980 Allot	[illegible]		[illegible]	[illegible]						
	Pay Cost										
	Oblig any status			[illegible]	[illegible]						
	1980 Allot										
	% Oblig status			[illegible]	[illegible]						

Navajo Area Office
P. O. Box 1060
Gallup, New Mexico 87301

FILE COPY
SURNAME

5/29/80

Memorandum

To: Commissioner of Indian Affairs

From: Area Director

Subject: Area Facility Management Situation

The Navajo Area Facility Management mission started FY-80 with a tentative allocation of $10.8 million. The final allocation received on March 10, 1980 was $8.6 million. $2.2 million had been withdrawn from Element 65, Component 71 by Facilities Construction and Operation Improvement Division (FCOID). This withdrawal coupled with astronomical increases in fuel, material and supply costs has placed the Facility Management program in a deficit situation which cannot be resolved at area level. In order to continue very austere operations for the remainder of FY-80, Navajo Area requires $2.26 million additional dollars to avoid breaching of the Anti-Deficiency Act and to avoid complete curtailment of services and supplies to our customers. Detailed justification for the required amount will be furnished by a following memorandum.

The FY-81 situation will require a reduction-in-force if funds continue to be deverted to FCOID. Element 65 funds the salaries and benefits of approximately 100 employees area-wide in the following trades and skilled craftsmen categories.

Carpenters
Plumbers
Painters
Electricians
Electrical Equipment Repairers
Air Conditioning Equipment Mechanics
Heating Equipment Mechanics
Equipment Repairers
Engineering Equipment Operators
Construction Inspectors

The average salary of these employees is almost $20,000 per year. Employee benefit cost is approximately 10% of salary. Estimated savings in personnel costs resulting from separation of these employees is $2.2 million per year.

BEST COPY AVAILABLE

Offsetting this [illegible] is the requirement to fun[illegible] oyee severance pay which will reduce the total amount of savings by a substantial degree the first year. In order to realize dollar savings for FY-81, permission to conduct a RIF must be given now, as the time frame required to complete the RIF actions is at least 120 days. This RIF will not realize any reduction in spending for FY-80. The RIF action will severely limit Navajo Area's capabilities in the above identified skills and trades occupations.

Based on the above, request the following:

(a) $2.26 million to fund the remainder of FY-80
(b) Immediate authorization to conduct RIF to prevent over-spending in FY-81.
(c) RIF action be conducted by Agency instead of Area-Wide.

/S/ Area Director

SEWADLEY:tl:5/27/80
cc: file
chrono
m/f
500
530

BEST COPY AVAILABLE

FILE COPY
SURNAME

Navajo Area Office
P. O. Box 1060
Gallup, New Mexico 87301

ility
agement

JUN 1 8 [illegible]

Memorandum

To: Commissioner of Indian Affairs

From: Area Director

Subject: Area Facility Management Situation

By memorandum dated May 27, 1980, the Navajo Area summarized our Facility Management Financial Situation in Fiscal Year 1980. Since then every effort has been made to trim the projected deficit in our 3500, Elements 64 and 65 Account.

Current Obligations as of May 31, 1980: (With salaries projected to September 30, 1980)*

	Element 64	Element 65
N00	$204,600	$736,239
N32	258,230	(79,309)
N33	(181,004)	115,064
N34	(400,602)	(589,438)
N35	(61,793)	(115,192)
N36	103,733	(549,405)
N48	13,600	(411)
N07	(7,377)	(45,889)
Totals	($70,613)	($528,342)

Total in both elements ($598,955)

* Parentheses indicate over obligation for year. Whole numbers indicate balances.

Cancellations being made, but not yet entered into the system:

N32	$ 30,000
N33	26,000
N34	322,600
N35	62,000
Total	$440,000

Breakdown of $2.26 million additional dollars needed to continue operation through September 30, 1980:

Fuel	$ 892,300
Utilities	666,400
Materials and Supplies	465,000
Telephone	27,500
Vehicles	164,400
Travel	33,400
Training	2,500
Equipment	4,000
Total	$2,255,500

In summary, considering our current status and projected payroll costs, minus cancellation of current obligations, plus additional funds needed to complete Fiscal Year 1980, it appears we will be $2,414,455 over spent.

In addition to our projected deficit of $2,414,455, we also have a directive to furnish the Branch of Education with $470,000 from our Fiscal Year 1980 allocation (3500) to be used by the Branch of Education (3100) in making small repairs. The Branch of Education has indicated, since we have a deficit, that the Branch will forego this transfer. Their feeling being that the Branch of Education has received more than $470,000 in services this fiscal year.

It is the opinion of our staff that Navajo Area Facility Management could have operated virtually without deficit if the $2.2 million had not been withdrawn by Facility Construction and Operation Improvement Division (FCOID).

In Fiscal Year 1981, if the current situation prevails, it will require a reduction in force to terminate approximately 100 trades and skilled craftsmen or change full time permanent employees to full time permanent (furlough). Reduction in force by either method is not desirable, since the Navajo Area will be losing skills and trades occupations which will severely hamper our capabilities to perform our responsibilities. However, permission to proceed with the Reduction-In-Force must be given now if Navajo Area is to avoid overspending in FY-81. Reduction-In-Force actions require at least 120 days to complete once permission is received to proceed. This time frame will place Navajo Area into FY-81 before the Reduction-In-Force is completed.

cc: Supervisor, Program Management Section
500 Chrono

DONALD DODGE

File
005
M&F
Reading

FRicks:gtn:6/17/80
Retype:gtn:6/18/80

9

E47121 WLRAI

5-1217

GSA TELETYPE CENTER
JUN 27 7 59 AM '80
PHOENIX, ARIZONA

RAAUIJAZ RUEVDEG0022 1791815-UUUU--RUWLRAI.

IOIA

FM HARRY A RAINBOLT ACTG DEPUTY COMMSR OF INDIAN AFFAIRS WASH DC

TO DONALD DODGE NAVAJO AREA DIR BIA WINDOW ROCK AZ

BT

THIS CONFIRMS TELECONS YOUR ASSISTANT AREA DIRECTOR BOWMAN AND PERSONNEL OFFICER SHEARIN RE YOUR MEMO DATED JUNE 18 CONCERNING FACILITY MANAGEMENT FINANCIAL SITUATION. YOU ARE AUTHORIZED TO PROCEED WITH REDUCTION IN FORCE AS REQUIRED TO CONVERT PRESENT FULL TIME PERMANENT WORK FORCE TO CAREER SEASONAL FURLOUGH POSITIONS. ADVISE SUPERVISORS, UNIONS AND EMPLOYEES SHORTAGE OF FUNDS NECESSITATES THIS ACTION WHICH IS PREFERABLE TO ABOLISHMENT OF POSITIONS AND SEPARATION OF EMPLOYEES. UTILIZE VACANCIES TO THE FULLEST EXTENT TO AVOID OVERLONG FURLOUGHS OR SEPARATIONS. YOU ARE AUTHORIZED TO FREEZE FILLING POSITIONS FROM OUTSIDE YOUR AREA IF YOU DEEM IT HELPFUL.

RECEIVED
1980 JUN 30 AM 10:43

NNNN

E47121 WLRAI

INFORMATION COPY
JUN 27 1980 151321

[illegible]

United States Senate

[illegible]

1980 AUG 14

August 13, 1980

REC'D AUG 15 1980

Honorable John Melcher
Select Committee on Indian Affairs
United States Senate
Room 5313, Dirksen Senate Office Bldg.
Washington, D. C. 20510

Dear Mr. Chairman:

The Select Committee on Indian Affairs recently held oversight hearings on Indian education. Although I was not able to attend these hearings, I have subsequently reviewed the stenographic minutes of the hearings and I would like to take this opportunity to add some additional comments for the record.

I note with interest the brief discussion which took place on the subject of a report prepared by the National Conference of State Legislatures under contract with the Bureau of Indian Affairs. The report is entitled "An Examination of Johnson-O'Malley Support For Basic School Operations."

There is obviously some disagreement about the findings of this report. A letter to me from the Director of the Office of Indian Education Programs has been placed in the hearing record which indicates that the report should be analyzed with caution.

It is not my purpose to defend or dispute the findings of this important study. Rather, I wish to relate the problems of one school district in Nebraska which illustrates how our current, unfortunate federal policy on Johnson-O'Malley funds has almost caused a school to close its doors.

The Santee School District in Nebraska, a public school which has a large number of Indian students, relies upon several major sources of funds for its operation: a local property tax, aid from the State based upon a complex funding formula, impact aid, and Johnson-O'Malley funds. Because the Santee school has a relatively low enrollment and cannot take advantage of economies of scale, its per pupil costs are relatively high. In spite of the fact that the school board tried to cut expenditures to the bone during the last academic year, the sources of funding remained inadequate and the school found itself facing severe cash flow problems several times throughout the year. The school remained open and will open for another academic year only because I was able to arrange, with the help and understanding of the Bureau of Indian Affairs, a $40,000 BIA discretionary supplement to the school's budget.

I consider the fact that such a grant had to be made to the Santee school evidence of a failure of our current federal policy on Indian education. I would like very much to see a revision to our policy in the upcoming year to preclude the recurrence of this problem for the Santee school and for any other school in the country which has similar problems.

It appears to me that a more flexible policy on Johnson-O'Malley funds would help solve the Santee school problem. Even though the authorizing law allows Johnson-O'Malley funds to be used for basic support, the current conference report on Johnson-O'Malley appropriations precludes the use of Johnson-O'Malley funds for such purposes. I would suggest that this restriction be dropped or, some leeway established for exceptional situations to be handled at the discretion of the BIA. In a school district such as Santee, where the local property tax base is extremely low, where State support represents only a small part of the budget, unrestricted impact aid dollars are not sufficient to make up the revenue gap without the availability of Johnson-O'Malley basic support dollars.

Since the Santee School District is a school district of the State of Nebraska, I have also been working with State officials to provide appropriate State support for this school district. I am pleased that the State Legislature has established an interim study committee to investigate this matter. Furthermore, State aid will be increased for the Santee School District next year, so the financial problems facing this district will not be as severe as those of the past year.

Nevertheless, I feel that the Congress must make some changes in its approach to the Johnson-O'Malley program, for I feel it is most unfortunate that special, unauthorized emergency grants must be made by the Bureau of Indian Affairs in order to keep a school such as Santee from closing. The report prepared by the National Conference of State Legislatures argues for a change in the Johnson-O'Malley program. Whether or not the facts and figures presented in this report are totally persuasive, the fact remains that there is at least one school district in Nebraska which has suffered greatly because of our currently inadequate Johnson-O'Malley policy. There are two other school districts in Nebraska which have problems similar to those of the Santee School District, although they are not as severe. If there are three such districts in Nebraska, there are probably several others across the nation.

I therefore urge the Congress to make suitable changes to Indian education programs to remedy the problems I have outlined, and particularly to make changes to the Johnson-O'Malley program. I will continue to do whatever I can at both the federal and state levels to provide an adequate educational opportunity for Indian children.

Thank you for allowing me the opportunity to make these comments for the record.

Sincerely,

J. James Exon
United States Senator

JOINT TESTIMONY OF THE
OMAHA, WINNEBAGO, AND SANTEE SIOUX TRIBES OF NEBRASKA
AND THE
MACY, SANTEE, AND WINNEBAGO PUBLIC SCHOOLS IN NEBRASKA

TO THE
SENATE SELECT COMMITTEE ON INDIAN AFFAIRS

WITH RESPECT TO
OVERSIGHT HEARINGS ON THE BUREAU OF INDIAN AFFAIRS
OFFICE OF INDIAN EDUCATION PROGRAMS
IMPLEMENTATION OF PUBLIC LAW 95-561, TITLE XI

AUGUST 4, 1980

August 4, 1980

Senator John Melcher, Chairman
Senate Select Committee on Indian Affairs
6313 Dirkson
Senate Office Building
Washington, DC 20510

Dear Senate Select Committee:

Please accept this as testimony to be included in the record on your over-sight hearings on the Bureau of Indian Affairs, Office of Indian Education Programs implementation of Title XI of P.L. 95-561. We understand these hearings were held on July 24, 1980.

We would like to address two issues which are critical to the education of our people.

1. Johnson O'Malley Basic Operational Support.

   We are in receipt of the needs assessment that was compiled by the National Conference of State Legislatures and also the Bureau of Indian Affairs Office of Indian Education's reply to that report.

   We are in total agreement with the report and support the findings of the needs assessment.

   The only critisicm we have of the report is the last sentence of the first paragraph on page 5 and the conclusion paragraph of Section 11, page 7, which is derived from the mistaken philosophy that the purpose of the Congress was to phase out Basic Support funds. The Basic Support phase out clause 273.31(a) of P.L. 93-638 was inserted illegally by the Bureau of Indian Affairs. The phase out clause was not sent out for comment by the public in the proposed P.L. 93-638 regulations. The Bureau of Indian Affairs, without consultation, administratively inserted the Basic Support phase out after the comment period was over. We never knew about it until it was published as final.

Our schools have been subjected to at least 7 studies or audits by the General Accounting Office, Inspector General's Office, Bureau of Indian Affairs, and others in the past 5 years. This assessment is the only report that has devised a method which evaluates the financial need of Indian children in Public "Reservation" Schools which is consistent, unbiased, and equitable.

We feel very strongly that the education of Indian students attending Public Schools which are located on Indian Reservations should be a "shared" responsibility of the Federal and State Governments. The needs assessment supports this philosophy and provides a mechanism for the equitable distribution of this financial responsibility. No other study nor audit has so adequately addressed the solution to the problem of equitably distributing educational funds to "Indian" Public Schools. The pro-rating procedures of allocating funds assures equitable funding. We compliment the National Conference of State Legislatures and its Task Force on their quality of work on a very complex issue.

We cannot agree with the Office of Indian Education Programs letter to your Committee indicating that they do not support the findings of the needs assessment. The Bureau of Indian Affairs, Washington

Office of Indian Education Programs, has no one on their staff who can compare with the knowledge and experience in Johnson O'Malley Basic Support as the membership of the Task Force put together by the National Conference of State Legislature which was approved by the Bureau of Indian Affairs. There are approximately 9 people in the nation who are considered experts on Johnson O'Malley Basic Support issues. Six of these 9 people served on the Task Force, 5 of them being Bureau of Indian Affairs employees. The Task Force members have approximately 100 years of collective experience in Johnson O'Malley Basic Support. In essence, the Washington Office of Indian Education Programs is not agreeing with, nor supporting, the findings and recommendations of their own Johnson O'Malley experts who work at the local and Area level.

We ask you to analyze with extreme caution, the Bureau's statement "Indian students attending Bureau schools have special and unique needs which require higher expenditures than would the usual public school enrollment." All the research, studies, surveys, and evaluations on Indian education point out that Indian students attending public schools have special and unique needs that no other students have. Indian students in public schools are subjected and confronted with more non-Indian educational policies and philosophies, non-Indian school boards, non-Indian school administrators and instructors, non-Indian curricula and environment, non-Indian attitudes, and prejudice than Indian students attending Bureau schools. The purpose of P.L. 93-638, Part 273.1 is to "financially assist those efforts designed to meet the specialized and unique educational needs of eligible

Indian students." Eligible students are defined in 273.12 as those Indian students from age 3 through grade(s) 12, except those who are enrolled in Bureau or sectarian operated schools. The Congress is attempting to meet these special and unique educational needs through the Department of Education, Office of Indian Education, Title IV, Part A program. Indian students in Bureau schools are not eligible for these funds either. These 2 programs although beneficial, are still not adequately meeting the special and unique needs of Indian students in public schools due to inadequate funding levels.

We sincerely hope that the Senate Select Committee on Indian Affairs and the Congress does not take the Bureau's blatant statement about special and unique needs literally and reduce or eliminate any funds available to Indian students in public schools when in reality, additional funds are needed to elevate our students in the educational mainstream.

In determining the operational costs needed to operate a school system, we cannot find any justification for such a statement that Bureau schools have a higher educational cost need than public schools. The only area which might cause additional costs in Bureau schools is teacher salaries. Our schools cannot compete with Bureau schools for qualified Indian or other staff because we do not have the financial ability to provide the higher salaries and other benefits such as low housing costs, etc.

2. Indian School Equalization Formula.

We object to the possible reduction of administrative funds at our

Agency and the elimination of our tribal education contracts under elements 10 and 14 simply because our schools are public and not Bureau operated. We understand the funds from these contracts will be used for Bureau schools. The Federal Government and Bureau of Indian Affairs have the same responsibility to the education of our children as they do to the tribes who have Bureau operated or contract schools located on their reservations. If the Bureau pursues its present negative attitude and actions towards the education of Indian children attending "Reservation" Public Schools, we will request to become Bureau operated schools. The Bureau can then plan on finding funding for our 3 schools in the amount of $1,814,674 in general operation funds instead of $271,486 that the formula indicated we would need from Johnson O'Malley Basic Support funds to bring us up to equitable funding with Bureau schools. We understand there are other public schools of the 26 surveyed who are considering the same action. We cannot understand why the Bureau is fighting the Johnson O'Malley Basic Support program so hard unless they are forcing us to become Bureau or Contract schools so they can ask the Congress for additional funds, thereby continuing to strengthen their paternalism.

In our circumstances, the Office of Indian Education is not attempting to adhere to its own policy of educating Indian students as close to their home as possible. Maybe they are attempting to keep their off-reservation boarding schools full by using our children if we have to eventually close our schools.

In reference to the Bureau's questioning the validity of the data supplied to the Task Force, the report addresses this issue by stating that an audit of the data would be necessary. The Bureau found out that the data from their schools was also questionable and had to be audited. We have been audited and studied so many times that we are accustomed to it and would welcome any such audit and will cooperate in any way we can.

In closing, we would like to quote from the Congressional Findings and Declaration of Policy of the 93rd Congress:

> S. 1017, P.L. 93-638 passed into law January 4, 1975
>
> AN ACT
>
> "To provide maximum Indian participation in the Government and education of the Indian people; to provide for the full participation of Indian tribes in programs and services conducted by the Federal Government for Indians and to encourage the development of human resources of the Indian people; to establish a program of assistance to upgrade Indian education; to support the right of Indian citizens to control their own educational activities; and for other purposes."

CONGRESSIONAL FINDINGS

> Sec. 2. (b) (2) "the Federal responsibility for and assistance to education of Indian children has not effected the desired level of educational achievement or created the diverse opportunities and personal satisfaction which education can and should provide; and
>
> Sec. 2. (b) (3) "parental and community control of the educational process is of crucial importance to the Indian people."

DECLARATION OF POLICY

Sec. 3 (a) "The Congress hereby recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational as well as other Federal services to Indian communities so as to render such services more responsive to the needs and desires of those communities."

Sec. 3 (c) "The Congress declares that a major national goal of the United States is to provide the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being."

As mandated by P.L. 95-561, the Bureau of Indian Affairs published its final regulations on Indian Education Policies on October 9, 1979. The Federal Register, Vol. 44, No. 196, Section 31 a 4 (c) states: "Equity Funding: Assure that resources for all education programs are equitably distributed for the benefit of all Indian and Alaskan Native students, taking into account special educational needs where they exist, as further described in Part 31 h of this Subchapter."

Section K-3 of the same regulations state: "Serve as an advocate and carry out responsibilities for Indian and Alaska Native students in public and other non-Bureau operated schools consistent with the wishes of the appropriate Indian tribes and Alaska Native entities, particularly in regard to Impact Aid (P.L. 81-874), Johnson O'Malley, and all Elementary and Secondary Education Act programs." Even though the Bureau has established this official policy, we have yet to experience this advocacy for Indian children in public schools, especially in regard to Johnson-O'Malley Basic Support.

It has become very evident that as long as non-Indians were controlling and administering the educational funds and programs for Indian students in public schools, appropriate officials were supporting the financing of this type of education. Now that we as Indian people were finally exercising our long overdue rights of determining and administering our educational programs, the support has mysteriously disappeared.

We are only asking to be able to educate our Indian students on an equal basis, under the same financial criteria applied to Bureau of Indian Affairs and Contract schools.

We wish to thank you for your interest and concern for the improvement of Indian education and the opportunity to submit this testimony.

Respectfully yours,

Edward L. Cline, Chairman
Omaha Tribe of Nebraska

Dr. Donald D. Ross, Superintendent
Macy Public School

Henry James, Chairman
Santee Sioux Tribe of Nebraska

Hal Schroeder, Superintendent
Santee Public School

Reuben A. Snake Jr.
Reuben Snake, Jr., Chairman
Winnebago Tribe of Nebraska

Carl H. Boyum Jr.
Earl H. Boyum, Jr., Superintendent
Winnebago Public School

CHITIMACHA TRIBE OF LOUISIANA

TRIBAL CENTER
P. O. [illegible]
CHARENTON, LA. 70523
[illegible]

August 19, 1980

Senator John Melcher
Chairman, Senate Select Committee
on Indian Affairs
Dirksen Senate Office Building
Room 6313
Washington, D.C. 20510

RE: Oversite hearing on "Education
Amendments of 1978 (PL 95-561)"

Dear Senator Melcher:

The Chitimacha Tribe of Louisiana feels that it is most important to the present and future education of our children to point out some glaring discrepancies in the implementation of P.L. 95-561 and the adverse affect that the funding formula has on small schools.

We have been responsible for the education of our people for hundreds of years. Beginning in 1932, we began to educate our children on the reservation in order that they could compete in society. For the past 45 years we have operated the Chitimacha Day School in order to educate our children.

In 1977 we opened the new Chitimacha Day school which was built by the Bureau of Indian Affairs after years of planning and negotiating. This school is a vast improvement over the one room clapboard school house which was used for 42 years and promises quality education for our children. We say promised, because with the implementation of 95-561 and its infamous funding formula, the future education of Chitimacha children is in jeopardy.

The proposed Budget for FY'81 (102,000) is a sharp reduction from 1980 (129,000.00) and if one uses a moderate 8% inflation rate, is substantially lower than the 1974 budget for the operation of the one (1) room school house.

We understand that regulations are written to address issues affecting the majority of Bureau schools, but we feel that the needs of the small school have been completely ignored. If the funding continues at the present level, we will have a million dollar education plant that will operate at 1/2 of its capacity, can be assured only 3/4 of the funding necessary to operate it, and will provide second class education to our children.

We ask that the Congress address this issue in a manner that will assure full participation for our children as citizens of the future.

We have attached a brief synopsis of the history, problems and future of our education system on the reservation.

Sincerely,

L M Burgess

L. M. Burgess, Chairman
Chitimacha Tribe of Louisiana

cc: Louisiana Congressional Delegation
RE/pal

CONTENTS

Position Statement

P.L. 95-561: Congressional Intent

Adverse Impact Statement

Related Problems

Proposed Improvements

Appendix:

Outline of Chitimacha Educational History

Budget

POSITION STATEMENT

In fiscal year 1981, the Chitimacha Day School will be operating on its lowest school budget since it opened in 1977. With such a significant reduction in funding, we are forced to provide Chitimacha children with an education at an inadequate and unacceptable level. We do not intend to retreat to the ranks of second-class citizenship. We will not tolerate a return to the educational inequities of past decades. We have come too far. Our number one priority has been and remains quality education.

P. L. 95-561

Congressional Intent

Introduction to the Indian School Equalization Program indicates that the United States House of Representatives Subcommittee on Elementary, Secondary, and Vocational Education has been interested in the education of Indian children.

My question is: In what way were they interested? Did they intend to up grade Indian education? Or did they intend to do away with Indian education as we know it? It would be hard to convince me that this was the intent of the Congress of the United States.

Looking at our 1981 Proposed Budget, we find that it is considerably lower than our 1974 budget allowing for an 8% inflation cost over that 6 year period of time. The school's student enrollment is essentially unchanged.

This then, indicates to me that the formula used to determine allotments for the smaller or low enrollment school is having a definite adverse effect.

According to the Department of Indian Education the actual Chitimacha Day School operating expenditures for fiscal year 1979 was $129,000 yet, we are told to operate this school in 1981 with something like $102,000. Not only are we told to operate this school with a $27,000 budget cut, but also to sustain a double digit inflation rate.

It then behooves this council and school board to make every effort to negotiate for a budget that will permit facility upgrading rather than downgrading.

History of the Chitimacha's attempt to educate their children goes beyond your life time and mine. In 1906 through 1911 my mother and other members of the tribe journeyed to Carlisle, Penn. to attend a school operated by the federal government. After graduation, I'm not sure how my mother returned home, but my wife's uncle told me personally that he wound up hitch-hiking home. Quite a feat considering the mode of travel at that time. (I make mention of all this to point out that educating our people over the years did not come easy).

And the struggle continues, in the early thirties classes were held in the front room of Mr. Ernest Darden (Chief at that time) taught by a Mrs. Stouff and her credentials (an 11th grade certificate). We later developed some local interest and were successful in acquiring a condemned building from the St. Mary Parish School System. This building was moved onto the reservation with funds provided by the federal government. Thus, the Chitimacha Day School opened its doors in 1934 -- a twenty-four by eighteen one room structure with the proverbial pot-belly stove, thirty-one students and one teacher.

Efforts to upgrade continued, and with some success then in 1977 the doors to our present new school opened, after a six year struggle and with the assistance of friends within the Department and others we were able to put together a facility that we would consider second to none. The community is proud of this school and we feel that anything less than an all out effort to generate the necessary funds to continue the efficient operation of this facility will be totally unacceptable to this community. The tribal council and the school board has made every effort to infuse the school budget with what limited resources were available. With the school submerged in a deficit budget in the fourth quarter of FY 80, the school board relinquished its training funds to the general school budget in an effort to keep it afloat.

We realize that we are requesting extra-special consideration under the formula, but to allow this facility and this community to suffer further for the sake of a few dollars is surely not the intent of P.L. 95-561.

ADVERSE IMPACT STATEMENT

Due to insufficient funding for the school in FY 81, we expect the following inevitable conditions to have a serious adverse impact on the school, students, and community:

1. NO DEPARTMENTALIZATION OF ACADEMIC STRUCTURE. We anticipate receiving funding for the retention of only two (2) teachers, who will teach all elementary school subjects to children of varying ages, academic levels, and educational needs.

2. NO SPECIAL EDUCATION. Funds will not be available to secure a much needed special education instructor.

3. ADDED AIDES RESPONSIBILITIES. The one (1) teacher's aide will be forced to take on unreasonable responsibilities. With only two teachers available, we foresee the probability of the aide taking on more teacher-like responsibilities in the classroom. The aide is not a certified instructor, and thus should not be placed in a position other than to provide assistance to the teacher.

4. TERMINATIONS. Three (3) positions must be terminated for the school to remain within the FY 81 budget:

a. Elementary teacher

b. Elementary teacher - special education

c. Cook

5. FOURTH QUARTER DEFICIT. Even with the termination of three positions, we anticipate the FY 81 budget to be sufficient for only three quarters of the fiscal year. The remaining school employees must then be furloughed for a 12 week period. If this situation occurs, we will not be able to retain competent, qualified individuals.

6. COMMUNITY DISSATISFACTION AND POSSIBLE DECREASE IN SCHOOL ENROLLMENT. This possibility would have a significant adverse impact not only on the school budget, but also on the community as a whole.

RELATED PROBLEMS

1. UNPROJECTED EXPENDITURES. Severance pay of those terminated employees must come from the FY 81 funding. However, the budget constrictions allow for no such expenditures.

2. FINANCIAL PLANNING. The B.I.A.'s lack of timely, decisive action in the hiring and termination of school employees impedes the formulation of accurate financial planning by the school administrator.

3. DUAL BUDGET ALLOTMENTS. The B.I.A.'s system of a tentative budget allotment and a final budget allotment does not facilitate consistent budgetary management. Readjustments, sometimes drastic, should not be forced upon the school at mid-school year.

PROPOSED IMPROVEMENTS

1. Provide a special formula funding system for those schools with 50 students or less. The year to year budget flux for small schools precipatates a paralyzing effect which could take years to recover from its impact.

2. Abolish dual budget allotments for the fiscal year funding. If feasible, the so-called tentative budget , based on the previous year's final budget allotment. In this way, necessary readjustments can be made in the fourth quarter of the fiscal year and not in mid-school year.

EDUCATION

1906 - 1911 - About eleven (11) Chitimacha students returned from Carlisle, Pennsylvania. (The only Indian boarding school available.)

1914 - Some Chitimachas attended the convent school in Charenton - most of them were used as clean up people.

1919 - Chitimacha Tribe gained Federal recognition.

1932 - Faye Stouff taught classes in Jack Darden's parlor on reservation.

1934 - Miss Alice Peters taught at Jack Darden's house.

1935 - The Tribe was reorganized under the Reorganization Act of 1934.

- Condemned building moved on the reservation. Mrs. Heloise Delahousaye became teacher for 26 years. This was the first Chitimacha Day School, grades kindergarten through seventh.

1941 - Several Chitimacha students attended school at Cherokee, N.C. Indian School.

1955 - Several Chitimacha students attended Haskell, Kansas Indian School

1964 - CIVIL RIGHTS ACT -

- Chitimachas were allowed to attend public school and ride school buses.

1969 - The first five-man Tribal Council was appointed.

1977 - Grand opening of all new Chitimacha Day School.

1979 - First time to offer ninth grade.

1980 - Funds being cut.

UNITED STATES GOVERNMENT

Memorandum

TO : Agency Superintendent for Education

DATE: July 16, 1980

FROM : Principal
Chitimacha School

SUBJECT: Tentative budget for FY 1981

Enclosed please find subject budget for FY 1981. Please note that it is a deficit budget. With our current staffing, it is estimated that we will need a minimum of $134,969 to operate the Chitimacha School for FY 1981. As you know, our allotment for FY 81 is only $102,845. The proposed RIF procedure, should it occur shortly would likely enable us to adjust our expenditures to the $102,845 figure, however.

John E. Singleton

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

BEST COPY AVAILABLE

IFRS

	Code	Description
Year	81	1981
[illegible]	3900	Education
[illegible]	11	School Oper.

TOTAL AUTHORIZED POSITIONS	8
Full-time Permanent	8
Other	
Contracted	

Tentative Budget FY 1981

(Prepare a separate sheet for each Element in your program.)

1 POSITION NUMBER	2 Suf-fix.	3 POSITION TITLE		4 GRADE & STEP	5 SALARY	6 PROGRAM COST ACCOUNT DISTRIBUTION Component/Work-Order Account Codes code 90 M00	code 61 A03	code 67 M08	code 1162E 63	code	code	code
All. 4200	A	Principal		11/7	26,464	26464						
All. 9470	P	Elem Teacher		9/5	20,658		20658					
[illegible]	P	Elem Teacher		9/4	20,051		20051					
All. 9278	P	Aide		3/5	10,216		10216					
All. 9279	P	Cook	WG	6/3	14,845			14845				
All. [illegible]6	P	Elem Teacher-Sp. Ed.		9/4	20,051				20051			
All. 9[illegible]	P	Elem Teacher		7/2	15,396		15396					
All. 9280	P	Cook	WG	5/3	13,353			13,353				
		Sub.- Total			141,034	26464	66321	28198	20051			
		Lapse (7 pay pd)			30,849		17857	7567	5125			
TOTAL				$	110185	26464	48464	20631	14626			
[illegible] Compensation/Cash Awards	(Add [illegible])											
[illegible] Benefit Contributions	(Add [illegible])				11018	[illegible]	4846	2063	1463			
Total Costs					[illegible]	[illegible]	[illegible]	[illegible]	[illegible]			

DEPARTMENT OF THE INTERIOR • • BUREAU OF INDIAN AFFAIRS • • EDUCATION FINANCIAL PLANNING

EFP-5

Code	Description
01	1981
3100	Education
11	School Oper.

separate sheet for each Element in your Program.)

	2	3	4						
	TYPE OF DEDUCTION/REIMBURSEMENT	ESTIMATED ANNUAL AMOUNT	PROGRAM COST ACCOUNT DISTRIBUTION (See no Component/Work-Order Account Codes						
			Code 67 N08	code 61 A03	code	code	code	code	code
1.	Quarters Deductions on Payroll								
2.	Meals Deductions on Payroll	874	594	280					
3.	Milk Subsidy								
4.	Tuition								
5.	Miscelaneous Service Agreements								
8.									
	TOTAL ESTIMATED REIMBURSEMENTS/DEDUCTIONS	874	594	280					

QUARTERLY PROJECTION OF TOTAL ESTIMATED: 1st $ 297 2nd $ 297 3rd $ 247 4th $ 33

You may project expenditure of estimated reimbursements in any one (or more) cost accounts, at your option, as long least one, in order to enter them into your financial plan for the year. You may also show projections into cost a Total Estimated line as well, at your option.

BEST COPY AVAILABLE

UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS
EDUCATION FINANCIAL PLANNING

EXHIBIT IFP 6-B
QUARTERLY APPORTIONMENT SCHEDULE

Sheet	Code	Description
Fiscal Year	81	1981
Activity	3100	Education
Element	11	School Oper.

IDENTIFICATION	Code
Area Eastern	S50
Agency	S78
Location	-12

Prepare a separate sheet for each Element in your program

A	B	C			
PROJECTED PROGRAM BUDGET	AMOUNT	PROJECTED EXPENDITURE RATE, BY QUARTER			
		First	Second	Third	Fourth
Line Item Total	$ 14,640	6,291	6,291	4,137	
Personnel Total	$ 121,203	30,000	30,000	27,000	
Total Program	$ 135,843	36,291	36,291	31,137	
Less Reimbursements/Deductions	$ 874	291	291	292	
Plus Carry-over from Past FY	$ -0-				
ISEP Allotment Budget	102,845	36,000	36,000	30,845	

SCHOOL BOARD APPROVAL ACTION on IFP 6 and IFP 6-B

Recommended by John E. Eagleton Date 7-16-80

**Approved Don Darden Date 7-17-80
Signature of Board Chairperson

**Disapproved ________________ Date ________
Signature of Board Chairperson

** Must be by an action of record by a quorum of the School Board responsible.

APPEAL ACTION

Appealed by ________________ Date ________

Resolution of appeal (describe)

BEST COPY AVAILABLE

STATES DEPARTMENT OF THE INTERIOR • • BUREAU OF INDIAN AFFAIRS • • EDUCATION FINANCIAL PLANNING • •

PROGRAM BUDGET SUMMARY EXHIBIT IFP-6

	Code	Description
al Year	81	1981
tivity	3100	Education
ement	11	School Oper.

IF A TOTAL SHEET, SHOWING MORE THAN ONE ELEMENT COMBINED, CHECK HERE: ☐
AND SHOW TOTAL ON LINE 5-X BELOW.

IDENTIFICATION BLOCK	
Area Eastern	5?0
Agency	5??
Location	-12

[illegible] a separate sheet for each Element in your Program.)

1	2	3	4												
LINE ITEM NO.	DESCRIPTIVE TITLE (See definitions for particulars)	TOTAL BUDGETED FOR LINE ITEM	PROGRAM COST ACCOUNT DISTRIBUTION												
			Component/Work-Order Account Codes							Component-only Account Codes					
			code 62E B3	code 90 M23	code 90 M50	code 90 N50	code 61 A13	code 61 A03	code 67 M18	code 67 [illegible]	code [illegible]	code 61 A53	code 91 J00	code	code
A.	Vehicle Rental, Passenger														
B.	Vehicle Rental, School Bus														
C.	Vehicle Rental, Materials Transportation														
D.	Travel by Employees	500				300						200			
E.	Travel by non-Employees/ Students														
F.	Utilities														
G.	Postage/Communications 35/Mo X 12	420			420										
H.	Materials and Supplies	8000					2000		6000						
I.	Equipment Purchase														
J.	Equipment Lease/Rental														
K.	Shipping/Installation														
L.	Change of Headquarters														
M.	Purchased Services $60 X 12 - Copy Machine	720		720											
N.	Contracted Programs														
O.	Grants														
P.	School Board Training	5000											5000		
Q.															
R.															
S.															
T.															
	A. LINE ITEM TOTAL	14640		720	420	300	2000		6000			200	5000		
	B. TOTALS FROM PERSONNEL WORKSHEET, IFP-3-A&B	121203	16089					53310		22694	29110				
	C. TOTAL PROGRAM COSTS	135843	16089	720	420	300	2000	53310	6000	22694	29110	200	5009		
	X														
	D. LESS REIMBURSEMENTS PROJECTED ON IFP-5	874						280		594					
	E. LESS CARRY-OVER FROM PAST FY	-0-													
	F. ISEP ALLOTMENT BUDGETED HEREIN	134969	16089	720	420	300	2000	53030	6000	22100	29110	200	5000		
	G. [illegible] EARNED BY EACH I.S.E.P. COST ACCOUNT		7088												
	H. PERCENTAGE RELATIONSHIP (Divide line 6F		222												

BEST COPY AVAILABLE